

~~TOP SECRET~~
NSC/RMO PROFILE

RECORD ID: 9220877
RECEIVED: 07 OCT 92 17

TO: LAMPLEY

FROM: BROWN, J

DOC DATE: 06 OCT 92
SOURCE REF:

196

KEYWORDS: POWS
CLASSIFICATION

MIAS

PERSONS: KENNEDY, RICHARD T

SUBJECT: REQUEST FOR DECLASSIFICATION REVIEW OF KENNEDY DEPOSITION AT POW/MIA
HEARINGS

ACTION: APPROPRIATE ACTION

DUE DATE: 10 OCT 92 STATUS: S

STAFF OFFICER: MENAN

LOGREF: 9220176 9220686

FILES: NS

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION
MENAN

FOR CONCURRENCE
LAMPLEY

FOR INFO
LEARY
ROSTOW

REDACTED

VERSION

FOR
Reading Room
99-F-0146

16	DOD/DFOISR
TOP SECRET CONTROL	
Copy No.	RT
Case No.	99-F-0144
T.S. No.	99-TS-009
Document No.	1

COMMENTS:

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSWEA

CLOSED BY:

DOC 1 OF 1

~~TOP SECRET~~

#943



COMMAND, CONTROL,
COMMUNICATIONS
AND INTELLIGENCE

~~TOP SECRET~~

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3040

TS-1340/DoD POW/MIA CDO
National Security Council
ATTN: Ms. Jenny Lampley
Legislative Affairs
Washington, DC 20506

6 October 1992

Dear Ms. Lampley,

Enclosed is the abstract of Mr. Kennedy's deposition. Please review it for declassification and return to the CDO. The CDO has already reviewed the abstract for DoD equities. If you have any questions about this abstract, please feel free to contact CDO Liaison Officer, Ms. Alice Tompkins at (703) 908-2861.

Sincerely,

1 Enclosure
Kennedy abstract (TS)
1 Cy

JOHN A. BROWN, Colonel, USAF
Deputy Director, DoD POW/MIA
Central Documentation Office

cc:
OSD/Legislative Affairs w/o encl
OSD/ISA/DASD POW/MIA w/o encl
OSD/C³I w/o encl
OSD/General Counsel w/o encl

REGRADE TO UNCLASSIFIED WHEN
SEPARATED FROM TOP SECRET ENCLOSURES

~~TOP SECRET~~

~~TOP SECRET~~

Stenographic Transcript of
HEARINGS
Before the

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE

ABSTRACT OF DEPOSITION OF HON. RICHARD T. KENNEDY

Friday, May 29, 1992

Washington, D.C.

ALDERSON REPORTING COMPANY
1111 14TH STREET, N.W.
WASHINGTON, D.C. 20005-5650
(202) 289-2260

DO NOT REMOVE THIS SECURITY
CLASSIFICATION MARKING
111114THSTREETNW
WASHINGTONDC200055650
(202)2892260

OFFICE OF SENATE SECURITY
DOCUMENT CONTROL NUMBER OSS 92-5027
This Document consists of 13 Pages
Copy 2 of 2

~~TOP SECRET~~

ABSTRACT OF DEPOSITION OF HON. RICHARD T. KENNEDY

Friday, May 29, 1992

- - -

U.S. Senate Select Committee on POW-MIA Affairs

- - -

Pages: Matters Contained:

1-10 Mr. Jim Hergan, an attorney of the Office of Legal Advisor, Department of State, accompanied Ambassador Kennedy. The normal documents and exhibits were marked. The WSAG notes were discussed and they were assured that none of those documents would be pursued, by special agreement today. However, they would be taken up at a later deposition.

He attended the University of Rochester and Harvard Business School. He was a career Army officer, with 30 years, retiring in 1971. He immediately took a position as Deputy Assistant to the President in the National Security Council staff and served in that capacity until 1975.

11-20 He served in World War Two in North Africa and Italy. He was detailed by the U.S. Army to the National Security Council in 1969 and he was called the Director for National Security Council Planning. Al Haig was his boss, who was the deputy to Kissinger. He was responsible for the NSC system. His job was to

ALDERSON

IPANY, INC.

1111 14th ST., N.W., WASHINGTON, DC 20005-5650 (202) 289-2260

Pages: Matters Contained:

1 make sure that it functioned and decisions that needed
2 the attention of the Council were brought to the
3 Council and ultimately to the President. He basically
4 served as a staff director to make sure all the
5 paperwork was routed to the right people. It was his
6 job to make sure that the analysis was done effectively
7 and properly.
8

9 He did attend the WSAG meetings and he found that
10 he often took notes there. From that point on, he was
11 in charge of making sure the WSAG functioned properly.
12 This started in 1969.

13 WSAG was basically a so-called "crisis management"
14 kind of body. The attendance was very restricted, very
15 often to principals only: someone from the Department
16 of State, someone from Defense, Chairman of the Joint
17 Chiefs of Staff, CIA. The President may have attended
18 one or two times, but it was very unusual. Henry
19 Kissinger would normally attend from the National
20 Security Council. He had no participation in the
21 Vietnam situation at all.

22 21-30 He never participated in the Paris Peace Accords.
23 He participated only in paper drafting and the
24 analytical work that was going on at various times.
25 When Haig would be gone, he would serve in Haig's shoes

Pages: Matters Contained:

and occupy his office. Most of these things were very closely compartmented. He knows that Bill Sullivan was involved in the negotiations. From the National Security Council, Kissinger, Winston Lord, John Negroponte, Dave Engel, Peter Rodman, Bill Stearman. He remembers that Negroponte left at some point. He first learned of Watergate in the newspaper, like everybody else.

Part of the inter-agency mechanism was the Senior Review Group. His involvement was to make sure that the review group worked. The Senior Review Group was a policy review. International economic issues would come before the Senior Review Group. President Nixon was the ultimate decisionmaker. Nixon was very involved, as he ordered the December bombing in 1972.

The method of communication was back channels. Dr. Kissinger had a fair degree of autonomy. He kept the President informed and sought his advice. The President had confidence in him. Often the President and Dr. Kissinger met alone. Occasionally Haldeman might be there. Vietnam was of intense concern during this time.

31-40 WSAG might discuss certain specific actions as to Vietnam and political, economic, and other tactical

Pages: Matters Contained:

questions would be discussed. Both Peter Rodman and Winston Lord were major factors on the personal staff of Dr. Kissinger.

He remembers Frank Sieverts at State worked on POW matters. He doesn't recall POW/MIA information. Usually the back channel cables -- there would be a phone call also on occasion between Kissinger and the President. The other means of communication were using the offices of Vernon Walters, who was the Army attache in Paris, and his successor.

They had a lot of input on speeches and various things. Kissinger would chop it up and rewrite it. Negroponte and Sullivan had some Vietnam experience, as did David Engel. Oftentimes Kissinger would return and then task other agencies for information. He believes Frank Sieverts gave them some information on POW's.

41-50 Normally the work was compartmentalized, very carefully so. This was done for security reasons. There would be a lot of oral briefings, and the President's attitude was he wanted to see the conflict terminated and he wanted to make sure that the U.S. interests were protected in all ways, and he wanted to be absolutely certain that it was not just the U.S. interest and that we were not in the process somehow

Pages: Matters Contained:

humiliated.

There was a lot of tension in the United States during this time. Oftentimes when he would go to work there were barricades and there were demonstrators and the entire building would be surrounded. Sometimes they were going to send helicopters out to bring the staff in to work because you couldn't get in the building.

His office was in the Old Executive Office Building. He is sure the POW/MIA matter was very high on everybody's priority list. The President didn't trust the North Vietnamese very much. Kissinger was going to Vietnam and to Hanoi in February and he was invited to go along.

They went to Laos and they met with Mac Godley, who was the Ambassador. He had known Ambassador Godley from the Congo. He remembers that they had pictures of POW's and they laid them out on the table. Pham Van Dong, Le Duc Tho, Trac, and some others were there. They laid these pictures out.

Also, they showed them pictures of tanks and armored personnel carriers moving down. They called attention that this was a clear and obvious violation. He remembers the North Vietnamese looking at it. The

Pages: Matters Contained:

North Vietnamese answer to this was that they were merely providing foodstuffs and necessary medical supplies to people in the north region. Ambassador Kennedy was personally insulted by this because they knew it was a lie, and they sat there and looked them straight in the face and told them.

51-60 Congress put a lot of pressure on the administration as they kept threatening to cut off aid and other things. There were a lot of meetings with House Minority Leader Gerald Ford. They were trying to maintain the support of Congress. There was a lot of pressure and emotion being built up against the war.

He thinks there was a discussion of the French experience. It was in the minds of a lot of people. But he can't remember with precision. He doesn't recall any discussion about the Sieverts paper. It may have happened, but he just doesn't recall it at this time.

The general view was to secure release of all prisoners held in Indochina as part of the overall package. He remembers the ICRC involved to some degree, but he doesn't remember the particulars. He remembers the controversy over Senator Kennedy getting a list, but that's about all. He thought it might

1 Pages: Matters Contained:

2 been a trap.

3 61-70 There was lots of pressure by family members on
4 Dr. Kissinger and the President, lots of visits from
5 people. He did prepare the paper on reconstruction
6 aid. This was prepared as part of the trip to go to
7 Hanoi. He thinks the reason he wrote the paper is
8 there was a lot of requests and demands from the North
9 Vietnamese delegates on what was reparation, what it
10 was going to be, how they were going to repair the
11 great damage that had been done to their country, and
12 in one way how they could return to normalcy. This was
13 just part of the total package.

14 He can't remember the dollar figure. It was going
15 to be very big. Part of the paper was to try to
16 illustrate the various kinds of things that could be
17 done, and it didn't all mean cash, such as building
18 bridges and things like that.

19 The troop withdrawals were approved by the
20 President of the United States. He believes the
21 reconstruction was raised in Paris. Those of us in
22 Washington were resolved that every aspect of the
23 agreement was going to be enforced, but shortly
24 thereafter it became clear we weren't going to do that.
25 We certainly didn't enforce the portion keeping the

1 Pages: Matters Contained:

2 from the South.

3 They tried, under the theory the ARVN's were going
4 going to be strong and they could protect themselves.
5 He thinks there was a continuous stream of violations.
6 He thinks there were some discussions about taking
7 military action, but he remembers that would have been
8 very limited in scope because of the situation in the
9 United States.

10 There was an effort to educate the North
11 Vietnamese on how our government differs from theirs
12 and how the money would have to be obtained.

13 71-80 He cannot remember that there was ever a
14 discussion of any end run around Congress. After being
15 shown a copy of the letter of 1 February from President
16 Nixon to the Prime Minister of North Vietnam, he
17 recognizes the context. He remembers aid being
18 discussed in the inter-agency context at NSC meetings.
19 He remembers participating in drafting a paper which
20 had to do with the subject matter, and he may have had
21 some part in drafting of this letter.

22 81-90 Payment in connection with the release of U.S.
23 POW's was not considered. The question of minesweeping
24 was something raised in connection with the accords.
25 He believes the reason the letter was dated 1 February

Pages: Matters Contained:

was that Dr. Kissinger wanted to make sure the accords were complete, signed, and delivered, and that we had gotten the lists of prisoners before there was any indication that we were preparing to implement any other portion of the agreement.

He thinks the letter went back channel and was reproduced in Paris and delivered by hand. There were regular contacts between Walters and his successor and Le Duc Tho.

The North Vietnamese never came through with all of the things that they were obligated to do under the accords. Two years later they marched into South Vietnam and completely took over the country.

The Joint Economic Commission was set up in Paris. It was kind of a popular approach of carrying on certain kinds of relationships. He thinks that our delegation provided the North Vietnamese with kind of a primer paper, a description of how our constitutional process worked for obtaining Congressional approval for aid.

He has heard that the North Vietnamese were meticulous on notetaking and recordkeeping, almost meticulous to a fault. Our leverage seemed to be eroding each week. He does recall minesweeping being

1 Pages: Matters Contained:

2 one of our strongest methods of getting compliance.
3 91-100 He believes both Nixon and Kissinger were
4 disappointed that there wasn't an agreement before the
5 election. He remembers a call at Thanksgiving in '72.
6 The President instructed him to send Kissinger some
7 things in his name. The message to Kissinger was:
8 Buck up, stand tall, keep at it; we want to be tough on
9 this. It was an unusual type message from the
10 President.

11 There was an enormous uproar in the country over
12 the December bombing. The President was just not
13 visible. He saw him every day and the President was
14 confident, quiet and relaxed.

15 Oftentimes you initial first and then both sides
16 make sure the text conforms to the other. He believes
17 the accords were signed in both French and English.
18 When he went with Dr. Kissinger to Hanoi in February of
19 '73, he was present during most of the discussions.
20 They took place in the headquarters building. They
21 spent three or four days in Hanoi -- Dr. Kissinger,
22 Ambassador Sullivan, John Holdridge, Winston Lord, and
23 Peter Rodman.

24 As far as aid being discussed there, Kissinger
25 went through a lot of indexes and how there would be an

Pages: Matters Contained:

exchange on this particular thing. The atmosphere was cordial in some senses, cool in others. He knows that POW's was discussed, but he just can't recall the details. He does remember some testy exchanges between Kissinger and Pham Van Dong.

Vietnam was not the only thing that they were working on. While it was a major preoccupation, there were many other events going on in the world.

101-110 He remembers a great deal of frustration and irritation over the POW situation. One of the actions they could take was they could stop the minesweeping. Of course, they could always renew bombing, but that had a lot of potential problems.

The problem with bombing was, number one, we'd go back to war, we would risk more KIA's and more POW's, and that might not get anybody else out. His personal impression was our frustration was pretty severe. He remembers talking about the Joint Economic Committee and it was clear in the U.S. judgment the North Vietnamese were not carrying out their responsibilities under the accords. Very soon there were many violations.

We were not in a very good position to continue active hostilities. The drawdown had reached a very

Pages: Matters Contained:

low level and we didn't have much leverage. Without muscle you can't do much.

A ceasefire is a ceasefire. Observe Yugoslavia. It's only as good as the will of both sides to maintain it. There was a lot of Congressional pressure during this time.

The China trip was in the offing. He remembers a problem with the India-Pakistan War. Also, things were developing vis a vis NATO.

At NSC they were basically divorced from any political type of things. The President's staff wanted it that way and so did Kissinger.

111-120 He remembers when Kissinger went over to get the President to sign his letter of resignation. He and his wife were invited to the ceremony when the President left office.

He doesn't think the Pathet Lao necessarily felt themselves as lackey of the Vietnamese, although the Vietnamese thought they were. In regard to Admiral Moorer's message, he feels that that message would have been cleared with the President, Dr. Kissinger would have been aware, and so would have been the Secretary of Defense. This type of decision would have been made by the President, Kissinger, and Laird.

Pages: Matters Contained:

2 The message of 23 March went to CINCPACFLEET. The
3 addressees on both messages are a little different and
4 he doesn't have an explanation. He doesn't recall
5 receiving these messages before.

6 At WSAG meetings there was a lot of discussion on
7 Laos, but he doesn't recall any specific POW
8 discussion. He remembers hearing about Dr. Shields'
9 statement, but not in any detail. He had contact with
10 Secretary Clements, but he doesn't remember any
11 discussion on POW's.

12 127 He feels Hanoi made all of the important
13 decisions. Le Duc Tho would communicate with them and
14 sometimes even go to Hanoi. When Dr. Kissinger went to
15 Hanoi in February, he did approach the North Vietnamese
16 on POW issues. There was a whole series of issues that
17 were discussed. One of them clearly was the POW issue.
18 There was some irritation and frustration.

19 (End of abstract.)

20

21

22

23

24

25

216

~~TOP SECRET~~

Stenographic Transcript of
HEARINGS
Before the

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE

DEPOSITION OF MELVIN LAIRD

PART 2

~~TOP SECRET~~

Wednesday, September 16, 1992

ALDERSON REPORTING COMPANY
1111 14TH STREET, N.W.
WASHINGTON, D.C. 20005-5650
(202) 289-2260

112 DOD/DFCISR
TOP SECRET CONTROL
Copy No. 1
Case No. 99-F-0146
T.S. No. 99-75-009
Document No. 2

~~TOP SECRET~~

112

DEPOSITION OF MELVIN LAIRD

Wednesday, September 16, 1992

PART 2

C O N T E N T S

<u>LAIRD EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>
5	46
6	46
7	47
8	60
9	67
10	92
11	98
12	113
13	117
14	118
15	127

** All Exhibits retained in the custody of the National Security Counsel.

1 [Whereupon, at 11:12 a.m., the deposition of
2 Melvin Laird proceeded, following a recess, to discussion
3 of National Security Council documents.]

4 BY MR. KRAVITZ:

5 Q. One of the things that the Committee is most
6 interested in having your viewpoint on is really both the
7 quantity and the quality of intelligence information that
8 the U.S. Government had regarding POWs and MIAs in each of
9 the various Indochinese countries leading up to and at the
10 time of the signing of the Paris Peace Accords.

11 I'll tell you the reason why we're interested.
12 As you may know, and I'm sure certainly you knew at the
13 time, when the lists of U.S. prisoners were exchanged on
14 January 28, first the lists from the DRV and PRG, and then,
15 on February 1, the list of U.S. prisoners supposedly from
16 Laos, there was a great deal of concern about the
17 completeness of those lists.

18 There were 56 men who were officially carried as
19 POW by the services, or at least it was recognized
20 immediately that there were 56 men officially listed as
21 POWs by the services whose names did not appear on any of
22 the lists, and there were certainly concerns about
23 additional MIAs in Laos whose names didn't appear on the
24 list.

25 What we really haven't been able to pin down yet

1 is how good was the intelligence indicating that those
2 people who were listed POW but whose names didn't appear on
3 the lists really were prisoner of war. In other words, how
4 can we interpret those discrepancies based on the
5 intelligence information that was available?

6 That's a ridiculously long question, but I just
7 wanted to let you know that's really why we're asking that
8 question.

9 A. Well, I think we had fairly good intelligence,
10 the best we could get at that particular time through human
11 intelligence and through signal intelligence. The best
12 intelligence we had was our [REDACTED] of course, and we did
(b)(1) 13 increase the number of people [REDACTED]
1.5(c)

14 And I'm not sure what we brought that up to in
15 the time period you're talking. I think I mentioned
16 earlier that we had really identified, probably through
(u)(1) 17 [REDACTED] almost 500 or so, I think. I can't give you the
1.5(c) 18 exact number. At one time or another, we had [REDACTED]
19 [REDACTED] and when I first -- the number of individuals,
20 it's hard for me to recall exactly what those numbers were.

21 At one time or another, we had probably in the
22 neighborhood of 500 or so reports of parachutes opening and
23 things like that. Now they were confirmed by intelligence
24 that the parachutes did open and people were landing. In
25 that dense jungle, it was pretty hard to tell what happened

(b)(1)
1.5(c)

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 [REDACTED] that's why they thought
6 Son Tay was the best place, and they felt that it could be
7 carried out there.

8 And when I authorized the Son Tay operation it
9 was well along before I even told the President about it.
10 I told the President about it after the thing had been set
11 up and getting ready, probably after a couple of months. I
12 remember I told the President the day that Nassar was
13 killed or died.

14 We were over in the Mediterranean at the Sixth
15 Fleet, and I had a nice visit with him that night, and I
16 told him that we were going forward, and he didn't say yes,
17 he didn't say no. But he said he understood.

18 If you're faulting the intelligence, the best --
19 we had pictures of Son Tay. Are you getting at Son Tay
20 now?

21 Q. Not specifically. I'm more interested really in
22 the quality, your view of the quality of the intelligence
23 really in all four of the countries -- North Vietnam, South
24 Vietnam, Laos, and Cambodia.

25 A. I'd like to have had better intelligence up in

1 to them necessarily when they went on the ground,
2 particularly up in Laos and in certain portions of North
3 Vietnam.

4 It was very difficult. And I don't fault the
5 intelligence community. I think the number is in the area
6 of about 500 or so. I can't give you the exact figure.

(u)(1)
1.5(c)
7 And then I think our confirmations by [REDACTED]
8 were in the area -- you're talking about '72 -- '71-'72? I
9 think confirmation by [REDACTED] so that we knew exactly that
10 they were alive [REDACTED] was about 375,
11 maybe up to 400 of those 500 parachute openings.

12 Q. Do you recall whether there was a substantial or
(u)(1)
1.5(c)
13 significant number of [REDACTED] who had not previously
14 been believed to be prisoner of war?

15 A. We had some. We had some that showed up, and we
16 made them POWs. They'd been listed as missing. You've got
17 those figures, and I think when I became Secretary of
(u)(1)
1.5(c)
18 Defense, the number of POWs that were identified by [REDACTED]
19 was in the neighborhood of 150 to 170, in that general
20 area. Those figures are certainly all available to you,
21 though.

22 Q. Right.

23 A. That's the greatest confirmation you have. See,
(u)(1)
1.5(c)
24 those [REDACTED] were important to me, too. You wanted to
25 know why we made the Son Tay raid. I can tell you.

(u)(1)
1.5(c)

1 North Vietnam. I mean, there's no question we would like
2 to have had better intelligence. Some of the best
3 intelligence we had in the north was through [REDACTED]
4 [REDACTED] That was
5 probably the best information we had.

6 Q. In other words, [REDACTED] regarding U.S.
7 prisoners who'd been captured?

8 A. Well, and also [REDACTED]

(u)(1)
1.5(c)

9 Q. You mean [REDACTED]
10 [REDACTED]

(u)(1)
1.5(c)

11 A. Yes, [REDACTED]
12 [REDACTED]

13 Q. Can you give us an idea of what some of those
14 other means were?

(u)(1)
1.5(c)

15 A. Well, I don't know how far you want to go on
16 this, [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 [REDACTED] You understand
20 that.

21 Q. I didn't know that.

22 A. Yes. And so that was good intelligence, and it
23 was very good intelligence. We had good intelligence out

(u)(1)
1.5(c)

24 [REDACTED]
25 [REDACTED]

(u)(1) 1.5(c)

1 [REDACTED] that's good intelligence.

2 I can't fault them for it. They did a hell of a
3 job on that. [REDACTED]

(u)(1) 1.5(c)

4 [REDACTED] -- and I would put those questions
5 to them real hard, because I'd bring [REDACTED] in. I'd
6 bring him in on Monday and Friday and just sit him down,
7 one on one, and he was my man over there.(u)(1)
1.5(c)8 And I told him, if you do a good job, you'll be
9 wearing a fourth star; if you don't do a good job, you'll
10 be going out in retirement. And he did a good job.
11 Bennett did a good job as head of DIA, and he went out with
12 four stars. I sent him to Korea. I had to do that in
13 December before I left. I had to take care of these people
14 who had been good, and [REDACTED] did a good job for me.
15 Bennett did a damn good job for me and DIA.(b)(1)
1.5(c)16 Now sure, there's a lot of things we'd have liked
17 to have known that were going on up in the north, but they
18 were getting pretty good information up there.19 Q. How much involvement did you have, if any, in the
20 actual classification by the services of lost servicemen
21 either as KIA, MIA, or POW?22 A. No, I didn't get into the classification
23 business. Each service had that responsibility. I made it
24 clear to the chief of each service and made it clear to
25 each service secretary. They understood that, and I

1 outlined that to them in the Airlie meeting, and I also
2 outlined that to them regularly in our meetings that we
3 had.

4 I met with each chief at least twice a week, and
5 I met with each service secretary. They could come in to
6 see me any time, but I always had an individual meeting
7 with them twice a week. And I think they understood that
8 that was their responsibility.

9 I didn't get personally into the classification.

10 Q. Did you have any oversight role in terms of
11 setting standards for the strength of evidence needed in
12 order for someone to be classified officially as POW?

13 A. No, but I talked to each of the intelligence
14 chiefs of each of the services about that, and I tried to
15 get them to agree among themselves. There was always a
16 little problem. The Air Force had a little different
17 concept than the Navy did. I think you have probably
18 become familiar with that.

19 Q. Actually, why don't you tell us what the
20 differences were?

21 A. They were a little different, and I always tried
22 to get them to try to standardize their classifications,
23 and they moved in that direction, but, you know, each
24 service had its own ideas once in a while.

25 Q. Were you satisfied that the classification of a

1 lost or missing serviceman as POW, at least in general, was
2 based on strong, credible evidence back in the 1971-72 time
3 period?

4 A. I really didn't have a good feel for that. I
5 never really was sure of that. The best evidence that I
6 got, that I was always glad to see, another person show up
7 ~~_____~~ That really was the greatest evidence you
8 had, if you could get ~~_____~~ I don't care
9 whether they ~~_____~~ or who
10 they came from, and in that time period we probably had --
11 I don't know, what did we have -- ~~_____~~

12 Q. I don't know what the numbers were.

13 A. At least ~~_____~~ and I think ~~_____~~
14 ~~_____~~ And it was always good
15 to get that. That was good information to get, because
16 that was a confirmation that you knew was good, because you
17 could recognize ~~_____~~ and
18 that was real important.

19 But I'm not trying to say that our intelligence
20 was perfect. It was not. We had a lot of problems with
21 intelligence in the north and in Laos.

22 Q. I want to get to that subject in a moment.

23 A. But the intelligence we had was pretty good, too.
24 We had some good intelligence up there.

25 Q. Before we get to that subject, let me just ask

(u)(1) 1.5 (c) 1 you one more question. You spoke before about some [redacted]
(u)(1) 1.5 (c) 2 [redacted] that led to the decision to
3 conduct the raid at Son Tay. Were there [redacted]
4 [redacted]
5 [redacted] that were providing information to the
6 government on other POWs in the system?

7 A. The only thing -- that was very hard to do in

(u)(1) 1.5 (c) 8 [redacted]
9 [redacted] It took them a long
10 time to do that. There were, at times, information on how
11 many people were there. We knew how many people were in
12 Son Tay at a given date, to the best of the [redacted]

(u)(1) 1.5 (c) 13 [redacted]
14 [redacted]
15 [redacted]
16 [redacted]

17 Q. I want to talk a little bit about the problems or
18 perceived problems --

19 A. We got information [redacted]
(u)(1) 1.5 (c) 20 [redacted] which was very important.

21 Q. I want to talk a little bit about the problems or
22 perceived problems with intelligence on POW/MIA-related
23 intelligence in Laos and North Vietnam. Why don't we start
24 with Laos? What were the problems that you referred to in
25 Laos relating to POW and MIA intelligence?

1 A. Well, the North Vietnamese in the areas where
2 most of our losses were, that were controlled by the North
3 Vietnamese, as you know, and the North Vietnamese were
4 taking those prisoners. You'll find, I think, in all your
5 records that most of those Laotian shootdowns, the POWs
6 that were taken there and those that were missing in
7 action, whether they were shot -- we know some of them were
8 shot -- and they wouldn't move them around. They'd get
9 tired of moving them around or doing things like that.

10 But there were very few, we thought, at that time
11 that were under the control of the Laotians because that
12 was really pretty much occupied territory. There were
13 several tribes, as you know. There are four or five
14 different groups up there at that particular time.

(u) (1)
1.5(c)
15 But even [REDACTED] I think, was turning over most
16 of those people, when he could, to the north.

17 Q. Certainly all of the Americans who were captured
18 in Laos who ended up being released during Operation
19 Homecoming, the historical fact is that all of them were
20 captured by the North Vietnamese army and then actually
21 held in Hanoi for the great majority of the time they were
22 held POWs.

23 A. There are probably some we thought may be there,
24 though, under the control of the north even after some of
25 those transfers were made. We got some [REDACTED] from people

(u)(1)
1.5(c)

1 that had been shot down in Laos who later showed up with
2 [REDACTED] from Hanoi. You know about those. I can't give
3 you their names. But there were quite a few of those.

4 Q. What were our intelligence assets in Laos that
5 could be used for tracking POWs and MIAs?

(u)(1)
1.5(c)

6 A. Well, we had [REDACTED] and things
7 like that. Most of the assets that were used to get
8 [REDACTED] and things like that were from outside of Laos.

(u)(1)
1.5(c)

9 Q. In 1971, if you have any problem remembering
10 this, I can show you some documents --

11 A. Yes, you'll have to show me a lot of documents
12 because I don't remember all of the documents from '71.

13 Q. We're not going to ask you to read this whole
14 package of paper.

15 A. No. But I hope that you will track down my
16 morning notes made by General Pursley because then you'll
17 know. We decided at those morning meetings, if it had to
18 do with Vietnam, what would be done that day or what orders
19 would be issued.

20 I didn't go over the bombing orders for the day
21 until in the evening. That was a different group that I
22 did that with, and that was always usually at about 4:30
23 I'd go over. And, by the way, I'm going to tell people
24 this in public, I never turned down any target requested by
25 the military in Vietnam. I may have delayed it a day or

1 two because of some diplomatic problem, but there was never
2 a target or a recommendation for military action that was
3 ever turned down by me.

4 Q. Why don't I mark this?

5 A. I approved them. If I approved them, you'll find
6 my initials on them all.

7 [Discussion off the record.]

8 Q. I'm marking as Exhibit 5 a document dated
9 September 9, 1971, which is a memorandum from you to the
10 Chairman of the Joint Chiefs of Staff, Subject Intelligence
11 Collection Support for Laos, and it's actually one of a
12 series of documents that I want you to look at.

13 Just for the record, this appears at page 270 in
14 a set of files which is marked JCS Archival Material, OSS-
15 92-4471.

16 [The document referred to
17 was marked Laird Exhibit No.
18 5 for identification.]

19 And, as you'll see when you look at this, you
20 indicate in this document and as well in what I'm marking
21 as Exhibit 6, which appears at the next page, a letter that
22 you sent to Secretary Rogers on the same date, that there
23 are some serious concerns about the intelligence gathering
24 in Laos.

25 [The document referred to

1 was marked Laird Exhibit No.
2 6 for identification.]

3 Specifically, you say that there are insufficient
4 intelligence assets in Laos and that that insufficiency is
5 hindering our efforts to recover prisoners of war and
6 missing in action personnel.

7 [Pause.]

8 A. Yes. I'm sure I was concerned about this.

9 Q. There are some other documents in there that I
10 can point you to that may refresh your memory as to how you
11 came to writing these memos.

12 A. I don't get what the question is.

13 Q. Actually, let me ask you to read one other
14 document, which is at pages 289 to 291. It's a memo from
15 the Joint Chiefs of Staff.

16 [The document referred to
17 was marked Laird Exhibit No.
18 7 for identification.]

19 A. I agree that these are documents I signed.

20 Q. Do you remember addressing the problem of POW
21 intelligence problems in Laos?

22 A. I was concerned from time to time that we weren't
23 getting as much information and as good information as we
24 could from our embassy up there.

25 Q. One of the things that's indicated in Exhibit

1 Number 7 --

2 A. That's why I sent General Vessey up there, you
3 know.

4 Q. Well, let's back up. One of the things in
5 Exhibit Number 7, which is marked, which is the JCS memo
6 from July 13, 1971, the one at page 289, not the one you're
7 looking at right now, is that the U.S. Embassy in Laos was
8 reported to be reluctant to accept resources, intelligence
9 resources, from CINCPAC, and that there was a concern that
10 this reluctance on the part of the U.S. Embassy in Laos had
11 resulted in there being really little reliable information
12 on the status of, I think, at that time more than 280
13 personnel who had been lost in Laos.

14 A. I think I said 250 in my memo. But in the JCS
15 they had raised it to 280.

16 Q. Do you remember what this was all about?

17 A. Sure. I remember the problems that we had in
18 Laos.

19 Q. This is the first we've heard of them, so can you
20 help us understand what they were in terms of the
21 reluctance of the embassy?

22 A. Well, I felt that the embassy up there felt that
23 it was operating an independent operation, and they were
24 not fully cooperating from time to time. I made that
25 known.

1 Let's see. Sullivan was up there at one time,
2 and then Godley was up there at one time.

3 Q. Sullivan was there from 1964 to 1969, and Godley
4 was there from 1969 to '73.

5 A. And Sullivan came back over here. I think it was
6 in '69. I expressed concern about that to the Secretary of
7 State, because it was his operation, [REDACTED] and the Secretary
8 of State. Godley was reporting to the Secretary of State,
9 supposedly.

10 And as far as the military situation was
11 concerned, it got kind of -- I was concerned about that,
12 and I sat down with Abrams when I was out there on one of
13 my visits and suggested we get a better person up there as
14 far as the military. That's when we sent General Jack
15 Vessey up there.

16 Q. What were the problems in the intelligence
17 gathering in Laos, and in what ways had the embassy been
18 uncooperative with the military?

19 A. I didn't think we were getting enough information
20 on the POWs and the missing in action out of that embassy
21 at the time, because they had opportunities to make contact
22 with the natives and other people there, and we weren't
23 getting much human intelligence at the time.

24 Q. When you say "we," do you mean the Defense
25 Department wasn't getting the information or that the

(u)(1)
1.5(c)

1 entire government simply wasn't getting it?

2 A. I meant that we in Defense weren't getting it.

3 Q. So, in other words, you didn't know for sure
4 whether the embassy might have the information and not be
5 giving it to you, or whether they just didn't have it?

6 A. Well, I thought by sending these letters and
7 memos that maybe that would shake them loose a little bit.

8 Q. Was there any positive effect of the memos and
9 letters that were being sent around in the summer and fall
10 of 1971?

11 A. I can't recall whether there was a positive
12 improvement or not. I was always concerned about the
13 intelligence coming out of Laos and the fact that I didn't
14 think we were getting as much information as we should have
15 from the ground in Laos.

(u)(1) 16 Q. What about [REDACTED] How was the
1.5 17 [REDACTED] coming out of Laos compared to, say,
(c) 18 the [REDACTED] that you've described in North
19 Vietnam?

20 A. North Vietnam was much better.

21 Q. Was that because we had, [REDACTED]
22 [REDACTED], or because we just were
23 getting [REDACTED]

24 A. Well, I think there was a lot more activity up
25 there, too. So it was easier to get information when

1 there's more activity.

2 Q. What was your purpose in sending General Vessey
3 to Laos?

4 A. Well, that, the decision of Vessey going to Laos
5 was really as a result of conversations we had in General
6 Abrams' quarters, along with the Chairman of the Joint
7 Chiefs of Staff and myself.

8 We were sending a lot of material up there and we
9 really didn't think it was being disbursed properly, that
10 it was being distributed properly.

11 Q. What type of material was that?

12 A. Well, this was material which the [REDACTED]
13 for certain operations that were going on in Laos.

14 It was transfers from Defense to the [REDACTED]
15 [REDACTED] up there, and Vessey went up there. And, I tell
16 you, the accounting became much better after Jack Vessey
17 got up there.

18 Q. When was that, that General Vessey went to Laos?

19 A. I can't give you the dates. You must have the
20 dates when he was there.

21 Q. Do you think it was about the same time that
22 these cables --

23 A. In this general area.

24 Q. So, 1971?

25 A. In this general timeframe. But I can't give you

(S)(1)
1.5 (C)

(S)(1)
1.5 (C)

1 the exact dates.

2 Do you have the dates here?

3 MR. CODINHA: When General Vessey was in Laos?

4 THE WITNESS: Yes.

5 MR. CODINHA: I don't have that. No, we don't
6 have that.

7 THE WITNESS: I can't recall the exact dates.

8 BY MR. KRAVITZ:

9 Q. There are some indications in some of those
10 documents, particularly the JCS memo, which is at pages 289
11 to 291, that we marked as Exhibit No. 7, there are some
12 indications in there which I think are ambiguous, at least
13 to an unschooled reader like me, as to, really, what the
14 reason was that the embassy in Laos was not being
15 particularly helpful, that they had concerns.

16 A. Now the Embassy in Laos was not reporting to me,
17 you know.

18 Q. I understand that.

19 A. So perhaps you could say it was easy for me to be
20 critical, and it was, because I was critical at times. And
21 I think you'll find that in these memos.

22 Q. Okay. But this one's not your memo. So this is
23 someone else being critical as well.

24 A. This comes from the Joint Chiefs, but, I mean,
25 they reflect, I worked pretty closely with the Joint Chiefs

1 and the Chairman.

2 Q. What was your understanding back in 1971 and in
3 the time period surrounding that year as to what was
4 causing the reluctance of the U.S. Embassy in Laos and
(u)(1)
1.5(c) 5 perhaps [REDACTED] with which it was working to be
6 uncooperative in providing intelligence information on
7 POW's and MIA's in Laos?

8 A. Well, I felt at the time that it wasn't a high
9 enough priority. But I wasn't there and I'm not going to
10 sit in judgment on whether there were higher priorities or
11 not.

12 Q. One of the things that we've been wondering about
13 was, in your opinion, was their failure, or let's call it a
14 failure to provide more intelligence information on POW's
15 and MIA's, in any way related to the fact that this really
(u)(1)
1.5(c) 16 was a [REDACTED] rather than by the
17 military?

18 A. That may have had some -- I don't have any direct
19 evidence of that, but that may have had a bearing.

20 Q. One of the things that has been abundantly clear
21 to us throughout this entire process is that the Defense
22 Department always seemed to be the agency that was most,
23 most concerned about POW's and MIA's because it was their
24 people.

25 A. Well, it should be their concern.

1 Q. And rightly so.

2 A. It should be the concern of the Defense
3 Department. It should be the concern of everybody. But it
4 was our primary responsibility, and that's why it went
5 public.

6 Q. That's what I was wondering about, whether there
7 was some lower level of concern or maybe a lower priority
8 among the people who were running the war in Laos. That's
9 really what I'm getting at, whether you noticed that.

10 A. Well, you always came back with the feeling that
11 they thought everything, as far as the POW thing, the POW
12 situation and the MIA situation, was in the hands of the
13 North Vietnamese. They always gave the impression that
14 anyone that was alive was turned over to the North
15 Vietnamese and it wasn't a Laotian problem.

16 Now, I was not there. I'm sure that there were
17 people not turned over.

18 Q. You're sure that there were people captured by
19 the Pathet Lao and not turned over to the North Vietnamese?

20 A. I'm sure that there probably were some shootings,
21 too.

22 Q. Well, let's break this down.

23 A. I mean I'm not, I can't, I don't have any first-
24 hand evidence, but I'm not positive in my mind that every
25 prisoner was turned over to the North Vietnamese. But I

1 think the feeling up there was that they all were being
2 turned over to the North Vietnamese.

3 Q. Okay. Just so the record is complete, when you
4 say "the feeling up there," you mean in the U.S. Embassy?

5 A. Yes.

6 Q. So, in other words, you did not necessarily
7 disagree with the position of the U.S. Embassy or the sense
8 in the U.S. Embassy that all prisoners captured in Laos
9 were either captured by the North Vietnamese Army or turned
10 over to the North Vietnamese.

11 Is that accurate?

12 A. I think probably that is accurate, that the vast
13 majority of them were.

14 Now, I didn't believe that all of them were at
15 any time.

16 Q. Why not?

17 A. Because I just felt that there was an opportunity
18 in that particular area that some of those groups may have
19 kept a prisoner or two, because they might have felt that
20 it might be some bargaining chip at some future time.

21 I don't have any real evidence of that, but I
22 also had the feel that that could have happened, and that's
23 why I was after better intelligence.

24 You see, I can't assure you that everyone was
25 turned over to the North Vietnamese. I think the embassy

1 up there felt that almost everyone was turned over.

2 Q. You said that after General Vessey went to Laos
3 in 1971 or approximately in 1971 --

4 A. Yes. I can't give you the exact date of when
5 Jack Vessey went up there. But it was in that general
6 area.

7 Q. -- whenever it was, you said that the
8 intelligence, or at least the reporting of the
9 intelligence, improved.

10 Can you give us an idea of how that improved?

11 A. I think that after we got on them, they did try
12 to do a better job in 1971 and 1972. I can't just give you
13 any examples. But I think they got the word that this was
14 something that we expected them to cooperate in.

15 Q. There was a meeting of the Washington Special
16 Action Group on January 29, 1973. You were not at --

17 A. In 1973.

18 Q. You were not at that meeting. But I want to tell
19 you about some statements that some other people, some
20 other DOD people made, and just see if you know what they
21 based on.

22 A. Just tell me who they were, though.

23 Q. They were Admiral Moorer and Admiral Murphy --

24 A. Okay.

25 Q. --who were both there. Admiral Murphy was there

1 on behalf of the Defense Department and Admiral Moorer was
2 there for the Joint Chiefs.

3 Just to place this in time for you, again, the
4 Accords were signed on January 27, and on that day, we
5 received the DRV and PRG lists of U.S. prisoners to be
6 released. But we had not yet received the Laos list, which
7 we didn't receive until February 1, 1973. And so, there
8 was a discussion at that WSAG meeting about, both about the
9 reactions to the Vietnamese lists that had been turned over
10 and about expectations for the Laos list that was supposed
11 to be turned over within the next few days.

12 In that discussion, Admiral Moorer stated that he
13 expected that there would be about 40 people on the Laos
14 list when it was turned over. Admiral Murphy spoke about
15 having observed some aerial photography of caves which were
16 very large and he said were much bigger than you would
17 expect to see if there were only six prisoners of war.
18 That was the number that the services carried formally as
19 prisoners in Laos at the time.

20 Admiral Murphy said that he expected that there
21 would be 40 to 41 on the Laos list when it was released.

22 Do you have any, I mean, do those numbers ring a
23 bell to you?

24 A. Well, you know, in general they do. I can't tell
25 you whether, the specific number I'm not sure. I think we

1 felt there were some there. But, I mean, I can't verify
2 the number exactly.

3 Q. Do you know --

4 A. Admiral Murphy was there representing me?

5 Q. Were you still the Secretary of Defense on
6 January 29, 1973?

7 A. No, I don't think so.

8 Q. I don't think so, either.

9 A. But who was he representing?

10 Q. The Department of Defense.

11 A. He was a Military Assistant of mine.

12 Q. Right.

13 A. He wouldn't be representing the Department of
14 Defense.

15 Q. Well, he was. He was, and I can show you --

16 A. He should have been representing Secretary
17 Richardson.

18 Q. I'm sure he was.

19 A. That's who he should have been representing,
20 because to the Washington Special Action Group I would
21 always send my Deputy, David Packard, and it's unusual that
22 Admiral Murphy was there.

23 Q. All right. I know he was there.

24 A. Oh, I'm not disputing you.

25 Q. Right. He was, I think he went to a lot of these

1 while Secretary Richardson was in that position.

2 A. And the Deputy didn't go?

3 Q. Oh, he did. I mean, Deputy Clements went, along
4 with Murphy.

5 A. Oh. I thought --

6 Q. I just don't think Clements had been confirmed
7 yet at this point, and Clements may have been there as
8 well. The point is it was Murphy.

9 A. Well, I can understand Murphy there as a backup
10 witness.

11 I'm not disputing it. I never sent Murphy or
12 Pursley to a Washington Special Action Group meeting. I
13 would send a civilian.

14 Q. This was a meeting, it was right after the
15 Accords were signed. It was right after some of the lists
16 had been turned over. Mr. Eagleburger was there. Mr.
17 Shields was there. There certainly were several lower
18 Pentagon officials.

19 A. Eagleburger at that time was Acting Assistant
20 Secretary of Defense for ISA and Larry Eagleburger is a
21 long-time friend. His mother was my first campaign
22 chairman in Portage County, Wisconsin. I mean, I watched
23 him grow up as a little boy. He's been my, I've helped him
24 all through his career.

25 But Eagleburger could have been there. I'd have

1 sent Eagleburger. But I wouldn't send a military
2 representative.

3 It's just a little strange. I always sent a
4 civilian to represent me on the Washington Special Action
5 Group.

6 Probably Secretary Richardson had a different
7 policy. He could do that.

8 Q. Let me mark this as the next exhibit.

9 A. I'm not disputing this at all.

10 Q. I understand. I just want you to look at it. It
11 may give you a better sense as to what he was doing there.

12 MR. KRAVITZ: I'm marking as Exhibit 8 the
13 minutes or at least the redacted version of the minutes
14 from the January 29 WSAG meeting and they indicate that Mr.
15 Eagleburger and Mr. Murphy were both there on behalf of
16 DOD, and Admiral Moorer and Admiral Wynell were there for
17 the JCS.

18 [The document referred to
19 was marked Laird
20 Exhibit No. 8, for
21 identification.]

22 BY MR. KRAVITZ:

23 Q. The more important question from our perspective
24 --

25 A. Really, I think the important representative was

1 Larry Eagleburger. He was just backing him up, Dan Murphy,
2 because I'm sure that Richardson would have sent a civilian
3 to represent him. You might not think that's important,
4 but as far as the civilian control issue is concerned in
5 Defense, where you have those kinds of meetings, you do
6 want to be represented by a civilian.

7 Q. That fact, though, doesn't necessarily make what
8 Admiral Murphy says less credible.

9 A. No, no. And I have great respect and admiration
10 for Admiral Murphy. I mean, I hired him and brought him in
11 from the fleet. And no, I'm not quarreling with you on
12 that thing.

13 Q. On page 8 of the minutes, Admiral Murphy says,
14 "We don't know what we will get from Laos. We have only
15 six known prisoners in Laos, although we hope there may be
16 40 or 41. We have known very little about the caves where
17 they keep the prisoners in Laos. We just got the first
18 photos of those caves recently, and our impression is that
19 they are pretty big. We think they're holding a lot more
20 than six prisoners there."

21 Does that refer, does that statement refer to
22 information that you were familiar with before the time
23 that you left your position as Secretary of Defense?

24 A. No.

25 I think that the figure when I left was a little

1 lower than that.

2 Q. Do you remember what it was?

3 A. I think that I used the figure in January of 1971
4 of five, and it seems to me I used the figure of 20 in
5 January of 1972, when I left. Now I may be, you know, I'm
6 trying to recall.

7 Q. When you say "you used the figure," what do you
8 mean?

9 A. Well, as far as when I, discussing the matter of
10 the POW's and where they were.

11 MR. KRAVITZ: Let's go off the record for a
12 minute.

13 [Whereupon, at 12:00 p.m., the deposition
14 recessed, to resume at 1:00 p.m. the same day.]

AFTERNOON SESSION

(1:20 p.m.)

WHEREUPON,

MELVIN LAIRD,

the witness herein at the time of recess, called for examination by the Senate Select Committee on POW/MIA Affairs, having been previously duly sworn by the Notary Public, was further examined and testified as follows:

THE WITNESS: We'll go back to the 40, then.

BY MR. KRAVITZ (Resuming):

Q. Why don't we go back to that subject.

Secretary Laird, if you had anything that you wanted to add to the discussion of the number 40 or 41 that we were talking about based on conversations you may have had over lunch, that would be great.

A. No, I haven't anything further to add. I do not know where they could get 40 confirmed.

Q. Okay. One of the things that you said right before we went back on the record was that your assumption was that there really was no list of 40 and that this must have been an estimate.

A. I believe it must have been an estimate. As far as my knowledge, it must be an estimate, because I know of no confirmed list of 40 POW's verified, substantiated, in Laos.

1 Q. I can tell you that, as of January, 1973, the
2 services officially carried six people as POW in Laos.

3 A. When I left, they carried five.

4 Q. You said something before lunch, however, about
5 the number 20 sticking in your mind.

6 Do you know where that number came from?

7 A. You know, if you're trying to estimate it, I've
8 heard that figure used. I had not heard 40 used. I heard
9 20 used. But that is strictly, you know, a ballpark
10 estimate. I'm sure that there probably were some in Laos.
11 I can't have, I have no reason to believe there weren't
12 some there. But I do not, I cannot give you a number.

13 Q. My question is when you heard the number 20 used,
14 was it your understanding, then, that that was simply an
15 estimate based on statistics or some other factor, rather
16 than on hard intelligence data?

17 A. I knew it was not based on hard intelligence. I
18 think hard intelligence, as far as I was concerned, the
19 hard intelligence was five or six.

20 Q. And when you mean hard intelligence, when you say
21 hard intelligence, you mean letters, or photographs, or
22 other --

23 A. Yes.

24 Q. -- essentially foolproof evidence that someone
25 was in captivity?

1 A. Yes.

2 Q. Was it your understanding that that type of hard
3 evidence was necessary throughout Indochina for all of the
4 services in order for someone to be listed POW?

5 A. They were approximately the same. There were
6 some variations, but approximately that's correct.

7 Q. But was the intent of the POW classification, the
8 formal POW classification by the services, generally to
9 indicate -- I mean, in other words, if someone was listed
10 POW formally, was that, can we expect, can we rely that
11 that would have been based on --

12 A. You have to be careful with the term "POW,"
13 because it raised a greater level of expectation on the
14 part of families, and children, and friends, and so forth.
15 They were careful about the use of it because it did raise
16 expectations to a very high level.

17 Q. And so, they were careful that the evidence was
18 strong?

19 A. Yes. They tried to be careful.

20 Q. Would we be correct in understanding, then, that
21 where there was doubt, as a general rule, where there was
22 doubt about whether someone was a prisoner or war or not,
23 the tendency was to put that person into an MIA status,
24 rather than into a POW status?

25 A. I think that would be reasonable to assume.

1 Q. One of the things we spoke about before lunch was
2 your efforts to gain improvement in the intelligence on
3 POW's and MIA's in Laos in the early 1970's, and you told
4 us that after --

5 A. Even after 1970 I was concerned about it.

6 Q. What I meant to say was in the early 1970's; so,
7 really, throughout the rest of your term as Secretary of
8 Defense. What recommendations did you make, if you can
9 recall, to improve the intelligence gathering mechanisms in
10 Laos?

11 A. I tried to ride the State Department and ride the
12 Ambassador to do a better job of getting intelligence out
13 of there.

14 Q. Were there specific recommendations or
15 suggestions that you made as to how they could do that?

16 A. Well, to use all the assets that they had
17 available, and I didn't think that we were getting enough
18 information out of there for the number of people we had
19 there.

20 Q. One thing I wanted to show you was I found a able
21 that you send in 1971 to the U.S. Embassy in Cambodia,
22 essentially making suggestions to that embassy which appear
23 to be similar to the ones that you made to the embassy in
24 Laos, although it's much more specific in terms of the
25 suggestions that you made in Cambodia than any document

1 I've seen related to Laos. I want to show it to you and
2 see if these are suggestions that are the same suggestions
3 that you made to the U.S. Embassy in Laos.

4 If it refreshes your memory, I'm going to mark as
5 Exhibit 9 this next document, which appears at pages 320
6 and 321 of the JCS files that we referred to earlier, OSS-
7 92-4471.

8 [The document referred to
9 was marked Laird Exhibit No.
10 9 for identification.]

11 I think, from a document that's on the previous
12 page, I think this indicates this is from March of 1971,
13 but it's a cable from the Secretary of Defense to the
14 American Embassy in Phnom Penh, Subject, PW Priorities in
15 Cambodia, and it's two pages long, if you want to take a
16 minute to review that and tell us if it refreshes your
17 memory as to specific recommendations that you made either
18 in Cambodia or in Laos.

19 [Pause.]

20 A. Well, that's a good way of getting information.
21 I'm sure that this is the sort of thing I would have wanted
22 carried out in Laos, too. Those are good recommendations,
23 by the way. They sound good today.

24 Q. Just for the record, in this cable you asked that
25 the Embassy give highest priority possible under the

~~TOP SECRET~~

68

1 present circumstances to the collection and reporting of
2 information identifying where U.S. POWs are held in
3 Cambodia.

4 A. I also, in the first part of it, make it clear
5 that this is the highest priority as far as our government
6 is concerned.

7 Q. And then, in paragraph 3, you make specific
8 recommendations of specific actions which could be taken to
9 obtain prisoner of war information.

10 A. Those are pretty good recommendations.

11 Q. One of the recommendations you make at paragraph
12 A here is, a systematic effort to obtain information on
13 U.S. PWs from villagers of areas where U.S. planes have
14 been shot down or where U.S. personnel were last seen.

15 Let me first ask you, is that a recommendation
16 you recall making to the U.S. Embassy in Laos at around
17 this time, 1971?

18 A. I may have made that -- I know I made that
19 recommendation then. I'm not sure if it was in '71, but
20 in general conversations this was one way of getting in and
21 talking to the villagers and getting information, human
22 intelligence, and that's the best way to do it, whether
23 it's in South Vietnam -- in South Vietnam, too, it's
24 important.

25 Q. Was it your perception -- and again I want to

~~TOP SECRET~~

1 focus on Laos -- was it your perception during the time
2 that you were Secretary of Defense that our government was
3 not making a sufficient effort in Laos to obtain
4 information on prisoners from villagers in areas where U.S.
5 planes had been downed?

6 A. I was not getting as many reports from them as
7 I was getting in other places, particularly in South
8 Vietnam. We were getting pretty good reporting, human
9 reports.

10 Q. Did that situation ever improve during your
11 tenure as Secretary of Defense, in Laos again? In other
12 words, did the number of reports from villagers in local
13 areas increase?

14 A. I cannot recall a tremendous increase of reports
15 from villagers coming to my attention from the Embassy in
16 Laos. Now if you have evidence that I was getting a lot of
17 reports, I don't recall getting an improvement in
18 reporting.

19 Q. I don't have any evidence that you did or you
20 didn't. That's why we're asking you. I'm not trying to
21 trick you. I'm just trying to find out.

22 A. I understand. I really don't recall any
23 improvements. And that's why when you go from 20 to 40 in
24 such a short period of time, from '71 to the end of '72, I
25 don't know where that -- unless there was a great

1 improvement of intelligence, I don't know how you got to
2 that figure or how Admiral Murphy did.

3 Q. Another recommendation that you make with regard
4 to the intelligence situation in Cambodia in this cable is
5 at paragraph B, and you write: Development of intelligence
6 assets specifically tasked to secure and verify information
7 on current location and identification of PWs.

8 What exactly did that mean?

9 A. You mean the tasking?

10 Q. What do you mean by developing intelligence
11 assets particularly or specifically tasked to find
12 locations of PWs?

13 A. That's taking natives and getting them working
14 for you, and having them as scouts. It's better to use
15 local people to do that kind of work, than it is anybody
16 else you can put in there to do it. You can use human
17 sources that way, and I was encouraging that.

18 Q. Did you make a similar recommendation to the U.S.
19 Embassy in Laos during your time as Secretary of Defense?

20 A. I imagine they even got a copy of that. Are they
21 copied on that?

22 Q. Yes, American Embassy, Vientiane, is on the
23 address list.

24 A. I'm sure I did. I'm sure I would not keep them
25 off that kind of a cable, because that was a standard

1 policy, to get information.

2 Q. Was it your perception -- I'm sorry. I didn't
3 mean to interrupt.

4 A. As far as Cambodia is concerned, there weren't as
5 many people shot down over Cambodia or captured in Cambodia
6 as there were in Laos. I think probably there must have
7 been -- I don't know. I can give you a figure, but if I
8 say 255, it's not a fixed figure. Let me say maybe 300
9 were shot down over Laos or captured in Laos or lost in
10 Laos.

11 I don't know what happened to them, but we've got
12 some figure in that general area, I think, as far as Laos
13 is concerned, and I think many of those were turned over,
14 if they were alive, were turned over to the North
15 Vietnamese, from the intelligence that I got, as I recall
16 it.

17 Q. Was it your perception during your tenure as
18 Secretary of Defense that there was a less advanced
19 development of these intelligence assets, really the
20 indigenous personnel, in Laos and Cambodia than in North
21 and South Vietnam?

22 A. We had a pretty good system in the south. We did
23 some work along that line in the north, as I am sure you
24 are familiar. I think that we did, probably, develop some
25 of that capability in Cambodia by the time I left Defense.

1 I never was completely satisfied with the
2 development of that capability in Laos.

3 Q. Did you see any improvement in that area after
4 you recommended that it be improved?

5 A. Well, I'm sure there was some improvement. I'm
6 sure there was. I don't like to say that they didn't pay
7 any attention to my messages.

8 Q. Another recommendation you make is that leaflet
9 drops in the local language be made in such areas seeking
10 information on specific men downed or last seen in those
11 areas, and asking that information be brought to
12 appropriate officials.

13 Was that a recommendation that you made in
14 relation to Laos as well?

15 A. Well, I'm sure that Laos got that recommendation.
16 I'm sure they were copied on those. And I was after them
17 all along for better intelligence information.

18 Q. Do you know if leaflet drops were used in Laos?

19 A. I don't know. I do not recall whether they were
20 or were not.

21 Q. Another recommendation that you made is
22 systematic interviewing of refugees from denied areas to
23 determine their knowledge regarding the capture, survival,
24 and location of U.S. personnel.

25 Was this something that was made good use of?

1 Was this a tactic that was made good use of in Laos?

2 A. You see -- I hope it was. I'm not sure.

3 Q. You mean because you're not sure that you were
4 actually being given all of the information that was
5 available to the Embassy?

6 A. I had much better communications in South Vietnam
7 than I did with the [REDACTED] in Laos, and so to ask
8 for me to say they improved substantially, I hope they
9 improved substantially, but I cannot prove that.

10 Q. It sounds to me like maybe the bottom line of all
11 this is not so much that the embassy in Laos was not
12 obtaining information, but, rather, that whatever
13 information they had they were not sharing with the Defense
14 Department as openly as perhaps they should. Is that an
15 accurate summary of what you're saying?

16 A. No, I don't know that as a fact.

17 Q. Was that the sense that you had?

18 A. I had a sense that we weren't getting the best
19 intelligence information out of Laos on POWs and missing in
20 action.

21 Q. Okay. And you're not sure whether the reason was
22 the intelligence information was never obtained or that it
23 was just not transmitted to you?

24 A. [REDACTED]
25 [REDACTED]

1 Q. So your expectation is that the problem was that
2 the information simply was never obtained?

(b)(1)
1.5(c)
3 A. I don't know. [REDACTED]
4 [REDACTED]

5 Q. I'm not meaning to imply anything. I thought
6 that was something that you were implying, but if I'm
7 wrong, I misunderstood you.

8 A. All along I felt that they weren't doing a good
9 enough job out there in Laos. But it never occurred to me
10 that they were doing a good job and not giving me the
11 information until today.

12 Q. I didn't mean to imply that to you. I thought
13 that was an undercurrent in what you were saying, but I
14 obviously misunderstood you.

(b)(1)
1.5(c)
15 A. I have no reason to believe [REDACTED] wasn't giving
16 me the information they had on POWs and MIAs. I had a very
17 good relationship with them, and I had gotten to know them
18 well over the years. I had been on the special five-Member
19 committee when we only had five Members in the House on it.
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

(b)(1)
1.5(c)
24 Q. Well, I didn't mean to plant that in your mind
25 because I don't have any reason to believe that they were

1 doing that either. I just thought that that was what you
2 were saying.

3

4

5

6

7 A. Weren't getting as much intelligence as I thought
8 we should be getting, if they had followed the guidelines
9 we had laid out to get this information.

10 Q. And even after you complained and made
11 recommendations for how to improve the situation, it never
12 got as good as you wanted?

13 A. It may have improved some, but it never was as
14 good as I would have liked to have seen it.

15 Q. You've said a couple of times that your belief
16 was that prisoners or most of the prisoners captured in
17 Laos were turned over to the North Vietnamese. Our
18 information is that, of the 350 pilots who were shot down
19 in Laos and became MIAs, there were 10 who were released
20 during Operation Homecoming, all of whom --

21 A. Were in the hands of the South Vietnamese.

22 Q. North Vietnamese.

23 A. North Vietnamese.

24 Q. Are those the people that you are referring to
25 when you say that you believe the prisoners were turned

1 over to the North Vietnamese, or is that belief from some
2 other source?

3 Our information is that those 10 prisoners were
4 actually captured by the North Vietnamese in Laos, and
5 therefore were not turned over to the North Vietnamese.

6 A. Well, it was mostly North Vietnamese operating up
7 there, as you know. Repeat your question.

8 Q. Did you have information indicating that
9 prisoners were captured by the Pathet Lao in Laos and
10 turned over to the North Vietnamese?

11 A. We had information that there prisoners turned
12 over to the North Vietnamese. We did have that
13 information.

14 Q. Because our information about the 10 people who
15 were released, supposedly from Laos, were that they were
16 not captured by the Pathet Lao and turned over to the North
17 Vietnamese. Rather, they were captured by the North
18 Vietnamese army in Laos and transferred to North Vietnam
19 for detention, but that there was never any turning over
20 from the Pathet Lao to the North Vietnamese for those 10
21 prisoners who were released.

22 So it makes it sound, the information that you're
23 recalling makes it sound as if there were additional
24 prisoners captured in Laos by the Pathet Lao who were
25 turned over to the North Vietnamese.

1 A. I don't know just exactly where they were
2 captured, the people that were released. I wasn't
3 Secretary when the release took place, and I have no
4 information as to exactly who captured them.

5 But it is my understanding that I was always
6 advised by Laos, the embassy in Laos, that they thought
7 most of the people that survived were turned over to the
8 North Vietnamese. That was what they reported to me.

9 Now there were a lot of people lost in Laos. I
10 mean, probably there were 550 or so people. I can't give
11 you the exact figure.

12 Q. It was right around 600.

13 A. But there were quite a few. And I cannot, from
14 the intelligence information I had, I can't tell you how
15 many of them survived.

16 Q. The information that's been made available to us
17 and has been included in Defense Department memoranda after
18 the time that you left the Pentagon was that approximately
19 350 of the 600 or so pilots who were shot down over Laos
20 were lost under circumstances which indicated that the
21 communist factions in Laos, whether they were NVA or Pathet
22 Lao, should have been able to provide us with information
23 about what happened to these people.

24 A. We had photoreconnaissance missions, as you know.
25 You probably have those pictures. We kept running them all

1 the time in there. They are very difficult to run because
2 that's a very mountainous country. If you go down to get
3 in close to get into that underbrush and so forth at a very
4 low altitude, you endanger those pilots quite severely.

5 Q. What is your opinion as to whether photoimagery
6 or aerial photography of caves is an accurate way of
7 determining how many prisoners might be inside the cave?

8 A. I don't know how you do that. As I told Senator
9 Fulbright at the time of the Son Tay raid, we haven't
10 anything that will see inside of roofs.

11 Q. We're obviously going to ask Admiral Murphy
12 tomorrow about his statement in the WSAG, but it appears
13 almost as if he is saying there must be a lot of people in
14 those caves because they are big caves, and that's just
15 kind of -- if that's the only thing, it seems like a
16 strange basis.

17 A. Well, I don't understand his testimony as you
18 gave it to me, that there were 40, and then Admiral Moorer
19 says 41. I'm just at a loss to understand how that
20 happened on the first of February of 1973 or in that area.

21 Q. Actually it was Moorer who said he hoped there
22 were 40, and Murphy said they were expecting 40 to 41.
23 Well, hopefully we'll find out.

24 A. Well, you tell Dan that I'm glad he's got some
25 sort of a see-through machine.

1 Q. Who knows? Maybe they had one by January 1973
2 that was brand new.

3 A. Dan's a fine military officer, really, and I have
4 great respect for his estimates. But I don't want to be
5 held to a specific figure like that.

6 Q. What about Cambodia? I know that you were
7 concerned that the intelligence wasn't as good as it could
8 have been or should have been. But how good was it, and
9 what did it tell us?

10 A. In Cambodia?

11 Q. Yes.

12 A. Well, we were in and out of Cambodia a little
13 easier, and we were having exchanges, and the South
14 Vietnamese were across the border often, as you know,
15 talking to villagers. And we had much better access to
16 Cambodia.

17 Q. Did you have information that we had prisoners,
18 live prisoners in Cambodia?

19 A. We had reports of that, held by the North
20 Vietnamese, not held by the Cambodians, though.

21 Q. Held by the NVA in Cambodia?

22 A. Yes. We had reports on that, and I always tried
23 to get to the bottom of those reports as reasonably
24 expeditiously as possible.

25 Q. You write in this cable from March 1970, Exhibit

1 Number 9, the one that I showed you just a minute ago:
2 information about and recovery of all U.S. prisoners of war
3 from Indochina is a matter of foremost national importance.
4 17 U.S. military personnel have been lost in Cambodia, and
5 may still be held there. Other U.S. PWs may be held in
6 Cambodia after their capture in South Vietnam or may be
7 moved through Cambodia on the way northward.

8 A. I think that's true.

9 Q. Do you know whether there ever was a number of
10 confirmed POWs in Cambodia?

11 A. I had no fixed number confirmed.

12 Q. As I'm sure you know, we never got any back from
13 Cambodia during Operation Homecoming or at any point after
14 that. Did you have information that the prisoners who were
15 believed to be in Cambodia were being killed, or do you
16 have any other information as to what happened to them?

17 A. No, I don't. I imagine certainly some of them
18 were killed, but I assume that some of them did go north.

19 Q. In other words, were brought up to Hanoi?

20 A. Yes.

21 Q. Or to South Vietnam?

22 A. Or to South Vietnam, yes.

23 Q. I take it those would have been prisoners who
24 were held by the NVA initially in Cambodia who were brought
25 north, or could those have been prisoners held by the Khmer

1 Rouge as well?

2 A. Either way.

3 Q. Was it your understanding that the North
4 Vietnamese, the DRV, had a similar relationship with the
5 Khmer Rouge that they had with the Pathet Lao in terms of
6 control?

7 A. I did not think it was quite as good.

8 Q. There was a more controlling relationship with
9 the Pathet Lao than the Khmer Rouge?

10 A. Yes.

11 Q. After you complained about the state of the
12 intelligence coming out of Laos and Cambodia, did you ever
13 enlist the assistance of the White House to try to improve
14 the intelligence in those countries?

15 A. Oh, I certainly did. I assume even that message
16 I sent to the embassy went to the White House, too, wasn't?
17 I'm sure I did. There's no question that I complained
18 about that quite a bit, and certainly to the State
19 Department too.

20 I think you will find that I jumped the Under
21 Secretary of State as well as Sullivan on intelligence
22 quite often, particularly as far as Laos, because I figured
23 Laos was their operation, [REDACTED]

24 Q. That one cable that you sent to Cambodia is not
25 copied to the White House.

(b)(1)
1.5(c)

1 A. Okay. Must be to State, though.

2 Q. Yes.

3 A. I don't think I'd be sending it without sending
4 some copy to State, because I'm sending it to their
5 ambassador. I'm very careful about that.

6 Q. I want to ask you a few questions about a
7 different time period, December 1970, when the DRV passed
8 what became known as the Kennedy list, a list of prisoners
9 of war acknowledged by the DRV at that time. According to
10 our records, there were 26 military personnel who were
11 formally carried as prisoners of war, classified as
12 prisoner of war, whose names did not appear on the so-
13 called Kennedy list.

14 Do you recall that?

15 A. I recall the discussions of it, yes.

16 Q. What were the discussions about that list that
17 you recall?

18 A. Well, as to its completeness

19 Q. Do you remember who you had discussions about
20 that with?

21 A. We discussed it at our Vietnam task force group.
22 It was a significant list. It was important.

23 Q. Was the incompleteness of the Kennedy list
24 something that was discussed between you, Dr. Kissinger, or
25 President Nixon?

1 A. I recall -- I do not recall whether we discussed
2 -- whether the incompleteness of the list was discussed
3 with them. I think you'll find there's a memo in there, I
4 think to the President, to Kissinger, relating to that it
5 wasn't complete.

6 Q. We don't have a memo. We've never seen a memo
7 from you to the President and the National Security Advisor
8 on that subject.

9 A. Well, I'm sure we discussed it. Maybe I didn't
10 send a memo, but it seemed to me that I did.

11 Q. I'm told there's a memo dated 23 December 1970,
12 which was the date that the list was first being analyzed.

13 A. From me?

14 Q. From the President indicating that the list --
15 from Dr. Kissinger to the President indicating that the
16 list should be analyzed and was going to be analyzed.

17 A. I'm sure we analyzed it. And I think that was
18 done in Defense. I think we analyzed it in Defense, and
19 there was no memo sent by me.

20 Q. The fact that I haven't seen it doesn't mean it
21 doesn't exist. We just haven't seen it.

22 A. Well, maybe I did it verbally then, but I thought
23 perhaps we did analyze that and send a memo on it.

24 Q. Is there any question that the analysis of the
25 Kennedy list was information important enough that you

1 would have transmitted it to the White House?

2 A. Absolutely.

3 Q. Did you believe that the Kennedy list was
4 complete at the time it was provided to us?

5 A. Well, of course I hoped it was complete, and I
6 felt it probably was. I mean, I always hoped that there'd
7 be more, you understand.

8 Q. I understand that perfectly well. I guess what
9 I'm more interested in is, did you actually believe that
10 the list was incomplete?

11 A. Oh, I think I probably did. Maybe my hope was
12 running, surpassing my judgment, but I had hoped it was
13 incomplete.

14 Q. Did your belief and hope that the Kennedy list
15 was an incomplete list give you any ideas or really teach
16 you and others in positions like yours any lessons as to
17 any special requests we should make in the negotiations in
18 Paris regarding prisoner exchanges?

19 In other words, did we conclude or did you
20 conclude from your belief that the Kennedy list was
21 incomplete that we needed to do something and have some
22 assurances in the agreement to make sure that the prisoner
23 exchange and any lists --

24 A. Right up to the end I was pressing for that.

25 Q. Pressing for what?

1 A. For a better understanding on the POW thing as
2 far as the agreement was concerned.

3 Q. What do you mean?

4 A. Well, I didn't think we were getting the
5 assurances, and I felt that we were in a position where
6 they hadn't lived up to the Geneva Accord on POWs for four
7 years, and that you just couldn't accept anything on the
8 POW/missing in action because of their record.

9 Q. What did you think that we needed to have in the
10 Paris Peace Accords, in the agreement, to make sure that
11 the problem --

12 A. I would like to have had the names.

13 Q. Let me just finish the question so the record is
14 complete. What did you think that the United States
15 Government needed to have in the formal Accords to make
16 sure that the experience of an incomplete list that we got
17 in December 1970, when the list was given to Senator
18 Kennedy, was not repeated following the ceasefire?

19 A. Well, I'm not sure it had to be written out in
20 the Accords, but I certainly would want some protocol
21 agreement on the side containing hopefully that we could
22 have the names of the people being held.

23 Q. You mean before?

24 A. Before the signing.

25 Q. Was that something --

1 A. And, you know, I talked about that. The first
2 time I talked about that was on, must have been on Face the
3 Nation or Meet the Press in 1969. I tried to make that
4 point, and I think if you'll go back and get the transcript
5 of that I said no agreement unless you take care of that,
6 because of the failure of them to live up to the Geneva
7 Accords on which they were a signator.

8 And I never changed my position on that.

9 Q. Did you specifically suggest to Dr. Kissinger
10 during the negotiation period that he insist that we have a
11 list of names of POWs?

12 A. I kept insisting on that right along, all the
13 time, and also there were other things in the Accords that
14 I didn't like.

15 Q. Do you remember what Dr. Kissinger's response
16 was?

17 A. He was always, we're taking care of that, taking
18 care of that. And I assumed that he was doing his best. I
19 had no controversy with Dr. Kissinger. He had very strong
20 opinions, but we have respect for one another.

21 We had bad fights over the bombing of Cambodia.
22 We had a tremendous fight over that, and he won, because he
23 wanted to keep it secret and I didn't want to keep it
24 secret, because there were 10,000 people involved. How do
25 you keep a bombing secret when you've got 10,000 people

1 involved? So they thought I leaked the Cambodia bombing,
2 and he called me up and accused me of it as soon as it
3 appeared in the New York Times.

4 We did go after each other.

5 Q. One of the things that we have noticed --

6 A. You know, Rogers went with Kissinger and the
7 President went on their side and directed it be secret,
8 which was a bad mistake.

9 Q. Going back to the issue --

10 A. I'd like to get into that a little more, if you
11 want.

12 Q. I want to go back to the issue of your suggestion
13 that we have an advance list of prisoners before the
14 ceasefire and withdrawal.

15 A. We were always looking for that. We were
16 pressing not only through government to government but
17 through the International Red Cross. We were pressing for
18 that all the time.

19 Q. I understand. Let me finish my question. One of
20 the things that we've noticed by studying the negotiation
21 record is that initially it was the U.S. negotiating
22 position that all prisoners not only should be named and
23 listed --

24 A. That was part of it. I don't think that was ever --
25 changed. That directive, as far as the negotiating

1 strategy, was never changed.

2 Q. Please let me finish my question. It initially
3 was the U.S. position, negotiating position, that we should
4 get our prisoners not only named and listed but actually
5 returned either two or four months before the troop
6 withdrawal was begun, the final troop withdrawal was begun
7 and the ceasefire commenced.

8 A. That latter part was changed, but not the first
9 part. That was never changed in the negotiating position.

10 Q. I don't think that's right. In the final
11 Accords, the way the Accords were written was that there
12 would be a ceasefire the day that the Accords were signed,
13 and then later that day the lists of prisoners would be
14 exchanged and over the next 60 days the prisoners --

15 A. But that was what was finally negotiated, but
16 that wasn't the negotiating position as we understood it
17 here in Washington.

18 Q. That's what I want to ask you about.

19 A. The negotiating position was not changed. The
20 Accord changed the negotiating position that was signed in
21 Paris.

22 Q. You may not have been told about what really
23 happened in Paris, because for months before the Accords
24 were signed the U.S. was agreeing with the DRV position
25 that the lists should be exchanged on the day of the

1 signing of the Accord, within hours of the ceasefire.

2 What I wanted to ask you was -- I don't think I
3 need to ask you whether you think that was a good idea or a
4 bad idea. You clearly think that was a bad idea. But what
5 I do want to ask you is, do you understand how we got from
6 our initial position to the position that we ultimately
7 agreed to in the Paris Peace Accords?

8 A. Well, I understand how negotiations take place.
9 I wasn't part of the negotiating team, but I understand how
10 that could have taken place in negotiations. You mean did
11 I approve it? I didn't approve it in advance or anything,
12 but I certainly understand how something like that can take
13 place in negotiations.

14 Q. Did you know that Dr. Kissinger had accepted the
15 position that was ultimately incorporated in the Accords
16 before the Accords were signed -- in other words, that the
17 lists would not be exchanged until after the Accords were
18 signed and the ceasefire was begun?

19 A. I'm not sure when I first learned of that, that
20 they had negotiated that position. I think that that was
21 negotiated weeks before the thing was signed, the actual
22 Accord was signed, though.

23 I don't think that was done on the last day. I
24 think I was informed probably about two weeks that that had
25 been negotiated. But I'm not sure it's the date that

1 you've given me. Don't hold me to the date.

2 Q. Actually, for several months before the Accords
3 were signed --

4 A. I don't recall the date, but there was an
5 agreement, I know, that was reached, but I cannot tell you
6 the date of when Dr. Kissinger agreed to that on behalf of
7 the United States. You've probably got the date, though,
8 haven't you?

9 Q. We have documents which show various positions.
10 It's a confused negotiating history because in September of
11 1971 Dr. Kissinger says we want the prisoners all released
12 two months before the troop withdrawal and before the
13 ceasefire.

14 A. That was our position, a going-in position.

15 Q. Then, in 1972, at some point it gets up to four
16 months, and basically our position is --

17 A. I cannot give you the dates of those positions
18 that were taken over in Paris, but I think that I knew
19 about it prior to the date of the signing of the Accord.
20 But I thought it was probably two or three weeks before,
21 because there was an evolution of that thing somehow in
22 there, from a year to four months.

23 I think you'll find that I got in touch and there
24 was some objection that I made to the change in there.
25 Have you got that message?

1 Q. An objection to the change?

2 A. To moving so far away from the original
3 negotiating position.

4 Q. I have not seen that. And you think it's an
5 objection that you would have voiced in January of '73?

6 A. No. I think that that would have been voiced
7 probably in September of 1972.

8 Q. So, in other words, shortly before the near
9 settlement in October?

10 A. That's when we were moving in that direction, and
11 I think they moved all the way probably in October. But
12 those are approximate dates and times. You know, it's
13 almost 20 years ago, and it's hard to give you the exact
14 dates and times.

15 MR. CODINHA: Let's go off the record for a
16 moment.

17 [Discussion off the record.]

18 THE WITNESS: You know, the negotiating track,
19 which is very important, is very important, was followed by
20 the Department of Defense as best we could, but that really
21 was the primary responsibility of the Department of State,
22 and if the President wanted to delegate some additional
23 responsibility to someone else, as he did to Kissinger,
24 that was his business.

25 We were not part of that negotiating team. You

1 understand that.

2 BY MR. KRAVITZ:

3 Q. I understand that.

4 We have a memo here that I've marked as Exhibit
5 Number 10, dated April 16, 1971, from Dr. Kissinger to the
6 President, and the subject is Dr. Kissinger's meeting with
7 the North Vietnamese on August 16, 1971.

8 [The document referred to
9 was marked Laird Exhibit No.
10 10 for identification.]

11 In pertinent part, Dr. Kissinger tells the
12 President, "he made a shift in their POW position, agreeing
13 to the exchange of lists at the time of settlement and also
14 in effect agreeing to release all our men held throughout
15 Indochina. This pretty well pins down agreement on this
16 question."

17 I think it's clear that this document -- this
18 document makes clear that back in August of 1971 Dr.
19 Kissinger had already walked backward from the initial U.S.
20 position and was really almost advocating rather than just
21 agreeing to, advocating the position that the lists should
22 be exchanged only on the day of the settlement.

23 Were you aware that Dr. Kissinger had backed off
24 from the initial U.S. position a year and a half before the -
25 Accords were signed?

1 A. I don't recall that I was.

2 Q. I assume that that's something you would have
3 voiced disapproval of, had you been aware of it.

4 A. I certainly did not realize the negotiating
5 position had changed a year earlier. I thought our
6 negotiating position changed in, I thought, around
7 September of the next year.

8 Q. It's actually very unclear. There is this
9 document which indicates that that subject really was
10 pinned down as of August 1971. There are later position
11 papers that we've seen from April and June of 1972 where
12 we're back to the position that we have to get all our men
13 back either two months or four months, depending on the
14 various papers, before the withdrawal is completed.

15 A. I was not aware of that position that I can
16 recall. Was I copied on that?

17 Q. I don't think so. I think this was just Dr.
18 Kissinger to the President.

19 A. Well, sometimes he did, though. And then we'd
20 have a weekly meeting. We'd have breakfast together and
21 he'd fill in on something. But I don't recall that.

22 Q. How informed were you and other senior Cabinet
23 officials of the secret negotiations that were going on in
24 Paris?

25 A. Pretty well informed. We kept pretty well

(a)(1)
1.5(c)

1 informed. And then, of course, [REDACTED]

(a)(1)
1.5(c)

2 [REDACTED]

3 Q. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 A. [REDACTED]

7 Q. What type of input did the Department of Defense

8 have in the negotiating process, specifically the secret

9 negotiating process on the subject of POWs and MIAs?

10 A. Well, we were involved in discussions right along

11 on that. One of my problems -- now we're getting away from

12 POW/MIA, I think, right?

13 Q. Well, I asked specifically what input DOD had in

14 the negotiations on the subject of POWs.

15 A. The DOD position all along was to have the list

16 in advance of any agreement. This was our position all

17 along. We thought our people would be protected in the

18 best way if we had that. Okay.

19 Secondly, we thought that our Vietnamization

20 program would not survive unless we had a commitment from

21 the Russians, because the Paris Accords had the provision

22 in them that we could replace supplies to the south and the

23 Russians would replace supplies to the north, but no new

24 material would be inserted into the war.

25 And I think Vietnamization would have survived

1 and would have been successful if we'd had that kind of
2 assurance from the Russians. The Russians, in the next
3 year after the signing -- and I know this for a fact and
4 you can find it out now that the Russian records are all
5 open -- put in \$2.7 billion worth of new equipment in
6 addition to the replacements, whereas we withdrew our
7 support for replacements for them at the same time the
8 Russians were putting in that amount.

9 And it really broke the back of the whole
10 resistance when that happened. I argued for better
11 restraints as far as the Soviet Union was concerned at the
12 time.

13 Q. Did the DOD have any input into the specifics
14 that the Accords and its protocols should include in order
15 to assure that all of our live POWs throughout Indochina
16 were released and also in order to ensure that there was as
17 full as possible an accounting for MIAs?

18 A. You've had Roger up here, haven't you, Roger
19 Shields?

20 Q. Yes.

21 A. And you've had Larry Eagleburger and talked to
22 him about it. They were over there working on that at this
23 time, and they were expressing the DOD position, my
24 position, at that time. And that was covered by them.

25 Did Roger give you the memos and things like that

1 covering that area? Do you have them?

2 Q. I don't know exactly what you're talking about.

3 A. As far as our input into the Paris Accord?

4 Q. Well, let me show you one document and ask you
5 some questions about it.

6 On November 8, 1972, at a WSAG meeting that you
7 were not present at, but there was a WSAG meeting that day
8 --

9 A. Who represented me -- Dave Packard? I'm just
10 interested. They always would come back and give me a
11 report on WSAG. I insisted that the first thing they do
12 when they come in the building is come to my office and
13 give me a report.

14 Q. Present from Defense on November 8, 1972, were
15 Kenneth Rush.

16 A. He was my deputy at that time. He took David
17 Packard's place.

18 Q. G. Warren Nutter.

19 A. And he was Assistant Secretary, ISA.

20 Q. Rear Admiral Daniel Murphy.

21 A. He was my military assistant.

22 Q. And Roger Shields.

23 A. Right. Okay.

24 Q. At that meeting, Dr. Kissinger asked for a
25 concise list of requirements, essential requirements, on

1 the subject of POWs and MIAs that he could bring over to
2 the North Vietnamese.

3 A. What was that date?

4 Q. November 8, 1972.

5 What Dr. Kissinger said is, "What I need urgently
6 are two pages of concise language on POW's that I can hand
7 the North Vietnamese the next time we meet. It has to be
8 something simple and should clearly state what we want. It
9 should contain no contingencies. They want an agreement
10 and we should tell them what we want while the pressure is
11 on them. That's how we got where we are now, by giving
12 them brief and simple requirements. I want that paper by
13 tomorrow night (November 9)."

14 Mr. Kissinger then later says, "I can't handle a
15 big laundry list. I know that I'm likely to get a list of
16 every conceivable thing that we would like to have, but
17 that won't do. I need just two pages saying what we want
18 on POW's, how they are to be released, the time sequence,
19 how many, and in what order, when and where they will be
20 picked up, et cetera."

21 He then says that he needs a paper on MIA's as
22 well, two separate papers.

23 Do you recall Mr. Rush, Mr. Nutter, Mr. Murphy or
24 Mr. Shields reporting on that meeting to you?

25 A. I'm sure they did. I don't recall the exact

1 date, but I'm sure they did. Mr. Eagleburger wasn't at
2 that meeting, though.

3 Q. Right.

4 On November 10, 1972, in a document that I'm now
5 marking as Exhibit 11, you sent a memo to Mr. Kissinger,
6 subject "Essential Negotiating Points," and then your memo
7 reads: "Attached are those additional elements of an
8 agreement on a ceasefire in Vietnam which I consider
9 essential. And it's signed by you.

10 [The document referred to
11 was marked Laird Exhibit No.
12 11 for identification.]

13 THE WITNESS: These are additional requirements?

14 BY MR. KRAVITZ:

15 Q. That's what it says.

16 A. These are additional to what?

17 Q. Well, I'm not sure.

18 A. Additional elements. Let's see.

19 [Pause]

20 A. This is now in addition to the paper, the two
21 page paper?

22 Q. I don't know what you're referring to.

23 A. Well, there was a paper that you told me, that we
24 had to get back on November 9.

25 Q. Well, I'm assuming that this is what that was and

1 that it was a day late. But is that a bad assumption to
2 make?

3 A. I think this is the additional elements of an
4 agreement on a ceasefire in Vietnam, which I consider
5 essential.

6 Q. So you think there was probably one on the ninth
7 as well?

8 A. I think there probably was one submitted to the
9 WSAG, but I am not sure of that. But it seems that these
10 are additional requirements that I'm recommending. This is
11 personal, isn't it? Yes, this was sent only to Kissinger.

12 Q. We have not seen another memo from you or anyone
13 else at DOD on November 9 or November 8 indicating a list
14 of essential negotiating points. That obviously doesn't
15 mean that it doesn't exist. But this is the only one that
16 we've seen.

17 A. Well, these are good points. I don't quarrel
18 with these points.

19 Q. I am not, either.

20 You seem to be saying that there was probably
21 another memo out there.

22 A. Well, it just seemed to me that I must have, that
23 this must be in addition to something. It's unusual for me
24 to start in with "these are additional points." "Attached
25 are those additional elements of an agreement on a

1 ceasefire in Vietnam which I consider essential."

2 Q. Is it possible that Dr. Kissinger showed you the
3 current language of Article 8, which controlled the release
4 of prisoners?

5 A. He could have done that. I cannot recall. But
6 these points, as I read them over, are essential.

7 Q. Let me ask you about some of these particular
8 points that you made. Let me just ask you as a general
9 point, when you told Dr. Kissinger that you were giving him
10 a list of essential points, was it your position that each
11 one of these points was absolutely essential in your
12 opinion?

13 A. In my opinion? Yes.

14 Q. Your first point regarding detained and missing
15 personnel is on the subject of lists of detained personnel
16 and it says, "The signatories to the agreement agree for
17 themselves and their respective associates in conflict that
18 each party of the conflict will provide name lists of all
19 military personnel and foreign civilians held captive by
20 that party. Lists will be provided at the time the
21 ceasefire commences by each party to all others and to the
22 Four Party Joint Military Committee and ICCS."

23 I have a couple of questions about that.

24 One is you say that the signatories to the
25 agreement agree for themselves and their respective

1 associates. Was what you meant by that that the DRV would
2 be agreeing not only for themselves but also for the Pathet
3 Lao and the Khmer Rouge?

4 A. Yes.

5 Q. And was it your opinion --

6 A. They were the associates that we were fighting
7 against.

8 Q. -- was it your opinion that that language, your
9 language to that effect, needed to be in the formal Paris
10 Peace Accords?

11 A. It was my opinion.

12 Q. And is it your opinion, then, that the fact that
13 such language did not appear in the formal peace accords
14 means that the formal accords lacked that essential point?

15 A. Well, they did lack that essential point. That
16 was not agreed to in the accords.

17 Q. That's right. The formal accords only required
18 the release of prisoners in Vietnam.

19 A. Right.

20 Q. Did Dr. Kissinger ever explain to you why it was
21 that the accords did not require, the formal accords did
22 not require the release of U.S. prisoners in Laos or
23 Cambodia?

24 A. They may have, but I can't recall that.

25 Q. The other question I have about this portion that

1 I just read to you --

2 A. That must be dated what, November of --

3 Q. November 10, 1972.

4 A. Tenth, yes. And I think the accords weren't
5 signed until the 26th?

6 Q. January 27, 1973.

7 A. The 27th. Yes.

8 You know, I was on my way out at that time, and
9 he may have, as I left the door of the Defense Department -
10 - does he say he explained it to me?

11 Q. No. We didn't ask him if he explained it to you.

12 A. I just don't recall that last, that must have
13 been about my last day, wasn't it?

14 Q. January 27th?

15 A. Yes, wasn't it?

16 Q. I'm not sure.

17 A. I'm not sure when Elliott got confirmed.

18 Q. Mr. Richardson told us --

19 A. He was held up for a day or two and I didn't have
20 a deputy. And, although I ordered a taxicab to pick me up
21 on January 20, I couldn't walk out the front door because
22 they didn't have anybody and I didn't have a deputy. So I
23 may have stayed around for a few days.

24 But I'm not sure of the exact date.

25 Q. I think you were gone by the day the accords

1 were signed.

2 A. Okay.

3 Q. You also indicated in the portion that I just
4 read to you--

5 A. On those dates, correct them if they're wrong.

6 Q. Okay.

7 You indicate here as one of your essential points
8 that lists should be provided at the time that the ceasefire
9 commences by each party to all others and to the Four Party
10 Joint Military Committee and ICCS.

11 My question is why are you not telling Dr.
12 Kissinger that it's an essential point, or that it's
13 essential that lists be turned over before the ceasefire?

14 A. Well, I think at that particular time they'd
15 already gone beyond that sometime in September.

16 Q. So, in other words, it was really, that position
17 --

18 A. I think they were notified. Weren't we notified?
19 You've got the documents here. I think we were notified
20 that he'd agreed to a different position in September
21 sometime. Isn't that correct?

22 Q. I don't know what you were notified. I have no
23 idea what you were notified.

24 A. Well, you see, I don't have the documents here.
25 Is there a document that shows that he had agreed to that

1 in September?

2 Q. Well, there are tons of documents which show
3 that. I just don't have any idea whether you were told
4 about that. I mean, as we told you, in June of --

5 A. I think I was told in September that they had
6 come to an accord on that point.

7 Q. Okay.

8 So, in other words, you took that as a given,
9 when you were preparing these essential points?

10 A. I think in November I would have taken it as a
11 given.

12 Q. Okay. Let me ask you about this.

13 There also was an agreement in October --

14 A. You got -- I'm not trying to hedge on this, but,
15 I mean, you got when I was notified of the agreement.

16 Q. If we have it, I haven't seen it.

17 Let me just ask my question.

18 Tell me if I'm wrong. What you're saying is that
19 because you were notified in September of 1972 that there
20 was an agreement, that there was an agreement that the
21 lists would be exchanged on the day of the ceasefire, when
22 you gave your essential points in November of 1972, you
23 took that September agreement as a given on that point?

24 A. I did.

25 Q. Okay.

1 In October of 1972, there was an agreement
2 reached whereby, as a side understanding between the U.S.
3 and the DRV not to be put in writing in the formal
4 agreement, the DRV would assure us that it would arrange
5 the release of U.S. POW's in Laos, but that the release of
6 U.S. POW's in Laos would not be part of the formal
7 agreement.

8 My question to you is if you knew about that, why
9 did you list as an essential point in November that the
10 release of U.S. prisoners in Laos had to be part of the
11 formal agreement and not list it as an essential point in
12 November?

13 A. I did not know about the side agreement. I
14 cannot recall being told about that side agreement.

15 Q. What were you being told about prisoners in Laos
16 by Dr. Kissinger?

17 A. That it had not been finalized. That's why I
18 tried to be strong on that. I thought that was important.

19 Q. Do you remember when it was that Dr. Kissinger
20 told you that the issue of prisoners in Laos had not been
21 finalized?

22 A. I don't know whether he ever did tell me that,
23 but he never told me it had been finalized.

24 Q. The reason I'm asking these questions is that
25 there are a bunch of cables that go back and forth between

1 President Nixon and Pham Van Dong in October of 1972, which
2 discuss the question of the release of U.S. POW's from Laos
3 as a side agreement or what they call a unilateral
4 declaration by the DRV. And it's the language. They
5 almost kind of go past each other with the language not
6 really, it really just doesn't mesh all that well. It's
7 unclear whether the two sides really do have the same
8 understanding as to what the situation is, or whether they
9 don't have the same understanding.

10 A. I thought it was very important to have an
11 understanding on that point. I know that.

12 Q. You obviously, from your essential points,
13 thought it was very important that it be part of the formal
14 agreement.

15 A. I did.

16 Q. Did you ever get any indication from Dr.
17 Kissinger or President Nixon as to their views as to the
18 stability of this side understanding about U.S. prisoners
19 in Laos?

20 Did they think they had an agreement or was it
21 really up in the air?

22 A. I didn't know they didn't have an agreement until
23 the agreement came down.

24 Q. Okay. But you knew it was up in the air as of
25 November?

1 A. I knew that it was up in the air in November and
2 I hoped that it could be taken care of.

3 Q. What was your understanding as of January 27,
4 1973, as to whether there was any agreement on U.S.
5 prisoners in Laos?

6 I mean, the accords, the formal accords you knew
7 --

8 A. The formal accords I knew didn't take care of it.

9 Q. Right.

10 Did you know about the so-called side
11 understanding?

12 A. I did not know about it. To my recollection, if
13 you've got some document that they notified me on that, I
14 really can't remember it. I cannot remember it.

15 Q. Mr. Laird, I don't have any document. You keep
16 asking me that. I'm not trying to trick you.

17 A. Well, you know, it's hard for me to remember
18 exactly if something was sent to me, and I cannot remember
19 any document along that line.

20 I thought the accord, when it was finally signed,
21 did not have that essential point that I'd asked for.

22 Q. And you're absolutely right.

23 A. But now you're telling me that they had a side
24 agreement.

25 Q. Well, they say they had a side agreement, and

1 it's unclear whether they did or not. That's why I wanted
2 to know whether you had any information on it?

3 A. To my knowledge, I did not know about the side
4 agreement. I cannot recall being told of the side
5 agreement.

6 Now, maybe tomorrow you'll find some damn letter
7 that there is around here. But I do not recall it, and I
8 don't believe that I would have, certainly in November I
9 didn't know about it, and I'm sure I didn't know about it
10 after. It's as sure as I can be.

11 MR. KRAVITZ: Let's go off the record for a
12 moment.

13 THE WITNESS: You see, the problem is I don't
14 know about the side agreements. Now, maybe that was given
15 to the Cabinet after I left.

16 MR. KRAVITZ: Off the record.

17 [Discussion off the record.]

18 MR. CODINHA: Why don't we go back on the record.

19 THE WITNESS: See, somebody had to play a little
20 bit of the hard liner on this thing and that was up to me
21 because these were my people. I considered them my people.

22 BY MR. KRAVITZ:

23 Q. One of the other essential points that you make
24 in this exhibit, which is Exhibit 11, is that, in your
25 opinion, it was essential to have the formal agreement

1 require that an accounting be provided on MIA's throughout
2 Indochina. That's something that the accords did not
3 include as well.

4 Do you know how it was or why it was that Dr.
5 Kissinger gave away that point in the negotiations?

6 A. No, I don't.

7 Q. Was that something that, in your opinion, could
8 have been left or should have been left to future
9 diplomatic efforts after the accords were signed, which is,
10 in essence, what it was?

11 A. No.

12 I wanted to have an understanding on that point.

13 You know, this was my position.

14 Q. I understand that. I understand.

15 Were these subjects that you ever discussed with
16 Dr. Kissinger, or was it just in this paper that you sent
17 over?

18 A. Oh, no. We discussed those matters many times.
19 Dr. Kissinger was very interested in the POW/MIA question,
20 and we had many discussions about it.

21 Q. You also wrote in this paper that it was
22 essential for the accords to give permission for teams,
23 including U.S. personnel, to conduct crash and grave site
24 inspections throughout Indochina. I take it that was an
25 absolutely essential part, should have been an essential

1 part of the agreement, in your opinion?

2 A. As far as I was concerned, it was essential.

3 Q. Were these, if you think back to the portion of
4 the WSAG meeting from the day before this that I read to
5 you, when Dr. Kissinger said what I want is a list of items
6 that I can bring to the North Vietnamese and that we can
7 get, in your opinion -- and I understand you weren't in
8 Paris for the negotiations -- but, in your opinion, were
9 these the type of essentials that we really could have
10 gotten in light of the way the war was being resolved?

11 A. In my opinion, yes.

12 Q. So, in other words, even though there was a
13 settlement rather than a victory, you think that we could
14 have achieved crash site, grave site access throughout
15 Indochina?

16 A. Well, I felt that it was very essential to
17 protect the position of the POW's and the MIA's,
18 particularly the MIA's.

19 Q. Okay. But that's a different question. Its
20 essential character, I think everyone here would agree --

21 A. You see, there are a lot of things that I would
22 like to have added in the accords that aren't there. I
23 would like to have had some enforcement as far as the
24 supplies coming in to the north, because that supply
25 situation in the north was the thing that wrecked the whole

1 program of the south.

2 Q. I guess what my point is, the next point that you
3 make in this paper is that the U.S. should have gotten
4 authorization or it was essential for the U.S. to have
5 authorization to have its aircraft fly over crash sites and
6 grave sites throughout Indochina for purposes of accounting
7 for the missing. I guess my question is in a settlement
8 like this --

9 A. You see --

10 Q. Let me ask the question -- in a settlement like
11 this, is it realistic for us to assume that Dr. Kissinger
12 could have achieved that essential point?

13 I don't think anyone would disagree with you that
14 it's essential in terms of getting the full accounting.

15 A. Oh, I wouldn't have sent the memo if I didn't
16 think it was essential.

17 Q. I understand that. The question is is it
18 realistic? In other words, can you expect the North
19 Vietnamse to agree to have U.S. airplanes flying over its
20 territory?

21 A. Well, we've had other agreements along that line.
22 I wasn't there negotiating, so I cannot put myself in the
23 same position as Dr. Kissinger. I was giving my opinion of
24 what was essential from the standpoint of the POW's and the
25 MIA's.

1 Q. I understand that. My point is I think everyone
2 would agree with you that each one of these points was
3 essential in order to get the full accounting.

4 A. Well, I think I would have been derelict in my
5 duty if I wouldn't have called these things to the
6 attention.

7 Q. I agreee with you. But that's not my point.

8 A. And I think every one of those things has proven
9 itself to be improtant.

10 Q. I think you're absolutely right.

11 The question is could Dr. Kissinger have gotten
12 these points at the negotiating table absent a military
13 victory?

14 A. I think it's very unfair to ask that question of
15 me because I wasn't at the negotiating table. If I was at
16 the negotiating table, perhaps I could give you an opinion.

17 I've been on a lot of conferences between the
18 House and the Senate over the years, and I've seen some
19 things happen and I've seen some things that didn't happen.

20 I've seen things when I was a son-of-a-bitch and
21 I got what I wanted in the conference. And negotiation is
22 something you really have to be there to appreciate.

23 Q. Okay.

24 A. You're not satisfied with my answer.

25 [General laughter]

1 Q. Well, it may not be an answerable question. I'm
2 sorry.

3 A. No, no. But I'm trying to be as sweet as I can
4 in answering your question.

5 [General laughter]

6 Q. Sweet to me or to Dr. Kissinger?

7 A. To both of you.

8 [General laughter]

9 A. I don't go around looking for a lot of extra
10 hassles. But I do stand behind the paper.

11 Q. Okay. I understand that.

12 MR. KRAVITZ: Why don't we take a five minute
13 break, and then come back and finish up.

14 [A brief recess was taken.]

15 BY MR. KRAVITZ:

16 Q. I want to ask you some questions about a document
17 I'm marking as Exhibit 12. It's a document dated October
18 11, 1973. So it's after the time that you left the
19 Pentagon.

20 [The document referred to
21 was marked Laird Exhibit No.
22 12 for identification.]

23 THE WITNESS: 1973. All right.

24 BY MR. KRAVITZ:

25 Q. It's a [REDACTED] document relating to

15(c)

(u)(1)1.5(c) 1 the subject of U.S. POW's in Laos, and it indicates that
2 intelligence available to the [REDACTED] shows that
3 as to American POW's in Laos, there were 86 last known to
4 be alive on the ground, and there are some other categories
5 here.

6 I want to show this to you. If you'd like,
7 please turn back to the first page and see if any of that
8 looks familiar to you.

9 A. This document?

10 Q. Or any of the information in it.

11 A. No, I can't say that it does.

(u)(1)1.5(c) 12 Q. [REDACTED] a source that was viewed
13 as reliable?

14 A. Not as far as Vietnam was concerned.

(u)(1) 15 See, I guess [REDACTED]
1.5(c) 16 [REDACTED] at this time.

17 MR. MCNEILL: I don't think he was the
18 I don't think he was at that level at that point.

19 THE WITNESS: Oh, sure he was. Yes. He
(u)(1) 20 succeeded [REDACTED] He would have been [REDACTED]
1.5(c) 21 [REDACTED]

22 I never got a lot of good information from
(u)(1) 23 [REDACTED] on Vietnam, if that's what you mean.

1.5(c) 24 BY MR. KRAVITZ:

25 Q. Is it your sense, then, that this type of

1 intelligence information is unlikely to be as reliable even
2 as what the United States Government was getting out of
3 Laos?

4 The reason we ask about it is it's obviously a
5 much higher number than we've seen.

6 A. I have never seen this, and I would put more
7 confidence in the American intelligence than I would in
8 ~~_____~~ as far as that section of the world is
9 concerned.

10 I would probably put the greatest confidence, a
11 higher level of confidence, in ~~_____~~

12 Q. Was there any indication from ~~_____~~
13 that you were aware of?

14 A. Not to my knowledge.

15 Q. Why was ~~_____~~ superior to American
16 intelligence?

17 A. I said superior to ~~_____~~ in that
18 area of the world.

19 Q. Superior to ~~_____~~ okay, but not superior to
20 American?

21 A. No, because, I mean, there's a lot of French
22 spoken over there. The ~~_____~~ were very much involved in
23 there, and at that particular time the ~~_____~~
24 -- and I talked to him on many occasions about Southeast
25 Asia -- was ~~_____~~ He was the ~~_____~~

1 at that particular time.

(u)(1) 2 I did try to talk with these [REDACTED] to try to
1.5(C) 3 get as much information as I can. And I would have to tell
(u)(1) 5(C) 4 you that I think the [REDACTED] were superior to the [REDACTED]
5 during that period.

(b)(1) 6 I had contacts with all of those [REDACTED]
1.5(C) 7 [REDACTED] and I talked to them regularly. I even talked to
8 the Pope about intelligence over there. But I do think the
(u)(1) 5(C) 9 [REDACTED] were superior to the [REDACTED] -- end of question, or
10 answer.

11 Q. We understand that at some point after the so-
12 called Kennedy list was provided and its completeness, or
13 likely incompleteness, was recognized --

14 A. I'm not trying to downgrade the Kennedy list --
15 it was an important list to have -- in my previous
16 testimony to you or --

17 Q. No. I understand.

18 We have information that at some point shortly
19 after the receipt of the Kennedy list you had, you held
20 some kind of a breakfast meeting or a meeting at the
21 Pentagon in which you had big photographs of 14 U.S.
22 military men who were believed to be prisoners of war in
23 Southeast Asia and whose names had not appeared on the
24 lists.

25 Do you recall that event?

3 Q. That's our understanding. That's what we've been
4 told.

8 Q. I want to show you what we've marked as Exhibit
9 No. 13, and, first, as to whether that refreshes your
0 recollection as to whether such a meeting was held; and,
1 second, if those were the photographs that were actually
2 provided at that meeting.

16 [Pause]

19 BY MR. KRAVITZ:

22 A. Right. Well, I did that often, you know. I'd
23 have luncheons and breakfasts for the press regularly.

24 This certainly seems legitimate to me. I don't
25 recall every one of these names. But I'm sure that I felt

1 the list was incomplete, and I was trying to get as much
2 attention as I could publicly to the plight of the POW's.

3 Q. I'm going to show you what's been marked as
4 Exhibit No. 14, which is a memorandum dated December 23,
5 1970, to you from the Assistant Secretary of Defense for
6 ISA reporting on the analysis of the Kennedy list.

7 [The document referred to
8 was marked Laird Exhibit No.
9 14 for identification.]

10 BY MR. KRAVITZ:

11 Q. I'll ask you if that refreshes your memory that
12 there were 26 servicemen formally listed as POW who were
13 not on the list?

14 That's on the second page of the memo.

15 A. Who is this from?

16 Q. I think it's from Nutter, Assistant Secretary of
17 Defense for ISA.

18 A. Now what's the question?

19 Q. The question is whether that refreshes your
20 memory, that when the Kennedy list came out and was
21 analyzed, it became clear that 26 people who were carried
22 formally as prisoner of war by the services were not listed
23 on the list.

24 A. I think that's correct. Yes.

25 This list -- there were several lists put out, so

1 I don't want to get confused. I think Cora Weiss came back
2 with a list, too, and she had either five more or five less
3 people on it than the Kennedy list. I can't remember
4 whether it was five more or five less. But there certainly
5 were people that we had identified as POW's that were not
6 on the lists.

7 Q. Right.

8 A. I'm not sure which had the most on it, but there
9 was a discrepancy of five, I think.

10 Q. On page 2 of this document, it says 26.

11 A. I recall this generally.

12 Q. I'm going to ask you some questions about the end
13 of your term or the time period in which your term as
14 Secretary of Defense ended.

15 We've spoken before that you think you left the
16 Pentagon some time around January 20, 1973.

17 A. I think it was around, I think Elliott was
18 confirmed either the 26th or 27th. Now, don't hold me to
19 the exact date.

20 Q. We're not holding you to the exact date.

21 A. I had to stay until there was a confirmation.

22 Q. How much turnover was there among the highest
23 officials at the Pentagon at or around that time?

24 A. Well, there was quite a turnover because the new
25 secretaries did not have authority over personnel.

1 Q. What do you mean by that?

2 A. Well, they didn't appoint their own people.

3 Q. The new Secretary of Defense and Deputy
4 Secretary?

5 A. Right.

6 Q. Who did appoint their people?

7 A. They were appointed mostly by the White House.

8 Q. When you say "their own personnel," do you mean
9 the assistant secretaries?

10 A. And I mean the Deputy, too. I had my own Deputy.
11 He wasn't a White House appointee. As a matter of fact,
12 when I announced Packard as the Deputy Secretary of
13 Defense, the President had never even met him.

14 Q. And that changed in the second administration,
15 the second term?

16 A. Right.

17 They did not have authority to appoint their own
18 people.

19 Q. So, in other words, when Mr. Richardson was
20 appointed, he was specifically told that his Deputy and all
21 of the assistants would be appointed by the White House?

22 A. Right.

23 Q. What was your understanding as to the reason for
24 that change?

25 A. I don't know. They might not have liked the

1 authority I had.

2 MR. McNEILL: If I may say, at the beginning of
3 the second Nixon Administration, it was a policy pretty
4 much through the Executive Branch. There was quite a
5 turnover in many of the Cabinet departments on this same
6 basis.

7 THE WITNESS: But I told my people not to send in
8 letters of resignation.

9 MR. McNEILL: I'm just saying I didn't think this
10 was effective at the Defense Department.

11 THE WITNESS: But they were removed.

12 BY MR. KRAVITZ:

13 Q. You told your assistants and your Deputy not to
14 send in letters of recommendation.

15 A. Well, my Deputy had already gone over to become
16 Under Secretary of State.

17 Q. That was Mr. Rush?

18 A. Right. But the service secretaries were all
19 changed, too.

20 Q. Do you know how it came to be that William
21 Clements was appointed Deputy Secretary of Defense?

22 A. Well, I don't know. He was a candidate for
23 Secretary, and I think the President decided that he would
24 rather have Richardson.

25 He was a very active person to be considered when

1 I was there. But I never appointed him.

2 Q. That's what I wanted to ask you. It's been
3 suggested to us that President Nixon wanted Mr. Clements to
4 be your Deputy during the first term and that you chose
5 others.

6 Is that consistent with your recollection?

7 A. That's correct. But that was my choice.

8 Q. Right, and I understand that.

9 A. I had great deputies. I had David Packard for
10 three and a half years, and he was outstanding. Then I had
11 Secretary Rush, who I'd gotten to know, and he served for
12 probably nine months.

13 But I did, I kept on people, too, you know. I
14 kept on Johnny Foster in R&D. I appointed Bob Moots, who
15 was a career man over there, as Comptroller because I'd
16 gotten to know him on the Appropriations Committee and
17 worked with him very closely.

18 I picked John Chafee as Secretary of the Navy.

19 I had Stan Resor stay for one year, and then I
20 appointed Bob Frokey, who was a friend of mine and had been
21 my, we went to high school, grade school, and everything
22 else together. I made him Secretary of the Army. He was
23 an outstanding Secretary of the Army. He went from there
24 to become Chairman of Equitable Insurance Company in New
25 York. And I got Bob Siemens, who I'd known very well up at

1 MIT.

2 I can go through all my appointments, if you're
3 interested in them.

4 I changed, I did change NSA immediately, and I
5 changed DIA. I'm not sure what you --

6 Q. Let me move to the end of your term.

7 When did the people who were leaving, the
8 officials who were not as high as you, but people maybe one
9 or two levels below you, when did they start leaving?

10 A. Well, they started leaving as soon as they
11 announced new appointments, really. I mean, first Bo
12 Calloway was announced for Secretary of the Army, and
13 Clements was announced as Deputy.

14 They brought in a new comptroller to take Bob
15 Moots' place. They got rid of Johnny Foster. They made
16 quite a few changes.

17 Q. Were the Paris Peace Accords signed at a time of
18 great transition at the Pentagon?

19 A. I would think so.

20 Q. In your opinion, did that fact have an effect on
21 the Defense Department's participation in the accords and
22 in the follow-up to the accords?

23 A. I can't say that it did or didn't. I wasn't
24 there and I don't want to pass judgment.

25 Q. Well, you were there during the time period

1 leading up to the accords.

2 Were people leaving already before you left in
3 January of 1973?

4 A. No. My people stayed with me. They didn't leave
5 until I left, and there's only one that left, and, that is,
6 I made the arrangements for him to leave. That was John
7 Chafee, so that he could run for the Senate up in Rhode
8 Island, and I was encouraging him to do that.

9 I then got John Warner to serve, who was the
10 deputy and a long-time friend of mine.

11 Q. What did you do after you left your position as
12 Secretary of Defense?

13 A. Well, I went to work for the Readers' Digest, and
14 I've been with them ever since. I represent, I'm on the
15 Readers' Digest Board, and I'm their senior council for
16 their national, international affairs. We operate in 22
17 countries around the world, and I try to represent and show
18 the flag for the Readers' Digest.

19 Q. Was it in that position that you were in Europe
20 in the spring of 1973?

21 A. No.

22 In the spring of 1973, John Warner and I made a
23 little trip over there to see the change of command of the
24 Sixth Fleet, and then also I received certain awards from
25 the German and French Governments, you know, their medals

1 or something.

2 Q. Did there come a time after you left your
3 position at the Pentagon that you had a position at the
4 White House?

5 A. Yes, there did.

6 Q. What was that position and when did you start?

7 A. I start there, I think I reported on the fifth or
8 maybe the first, or fifth -- between the first and fifth of
9 June.

10 Q. And your position was what?

11 A. I was Senior Counselor for Domestic Affairs.

12 Q. What did that job entail?

13 A. Well, it had to do with all of the work of the
14 domestic council and the responsibilities that the budget,
15 overseeing the budget, as far as the next year's budget was
16 being prepared, and representing the President on all
17 domestic legislative matters and with the Cabinet.

18 Q. How long did you hold that position?

19 A. I stayed there for about a year.

20 Q. Were you also working for Readers' Digest at that
21 point?

22 A. No. No.

23 Q. So that was later?

24 A. Well, I had agreed to go to work for Readers'
25 Digest, but I couldn't work for Readers' Digest and be at

1 the White House. I was also served, I did serve as a
2 member of the National Security Council during that period,
3 too.

4 Q. During which period? When you were at the White
5 House?

6 A. When I was at the White House.

7 Q. Where were you, if you know, in, say, March and
8 April of 1973?

9 A. Let's see. I was down, I think, at -- I believe
10 -- I was in Florida, but I can't tell you the exact place.
11 I think I was at John's Island. But I might have been at
12 Boca. But I think I was at John's Island.

13 I was really taking it a little easy during that
14 period.

15 Q. Was there a reason that you gave up your position
16 as Secretary of Defense --

17 A. No.

18 Q. -- other than just that the term was over?

19 A. I announced that I would, the day I was sworn in,
20 I announced that I'd have a taxicab there on January 20, at
21 the building, because I had had disputes with McNamara. I
22 told McNamara once that he'd been there too long, and he
23 almost came across the table and started using a few swear
24 words at a hearing up here on the Hill. And George Mann,
25 who was Chairman of the Committee, quieted him down a

1 little bit and made him apologize to me. But I really did
2 think that McNamara had been there too long.

3 I told myself that I would not do that in that
4 job. And so, it was announced. I guarantee you the day I
5 was sworn in, I announced that that cab would be there.
6 And I would have been out of there on the 20th if it hadn't
7 been for the Senate up here screwing things up.

8 Q. With Mr. Richardson?

9 A. Yes.

10 Q. Did you have any contact with the Nixon
11 Administration regarding, in March and April of 1973,
12 regarding their decisions as to how to respond to
13 violations of the accords by the DRV?

14 A. No. They did not contact me.

15 I didn't expect them to, though, either. I mean,
16 I was --

17 Q. You were out of the administration?

18 A. Right.

19 Q. Mr. Laird, I'm going to show you what we've
20 marked as Exhibit 15, which is a memorandum that you sent
21 to the President some time after October 26, 1972, when Dr.
22 Kissinger made his "Peace is at Hand" statement at a press
23 conference.

24 [The document referred to
25 was marked Laird Exhibit No.

1 15 for identification.]

2 BY MR. KRAVITZ:

3 Q. Do you recall when that memorandum was sent to
4 the President?

5 A. Let me read it.

6 Q. Okay.

7 [Pause]

8 A. I don't know, but I imagine this probably was
9 around Christmas of 1972.

10 Q. You think that was written before the Christmas
11 bombing?

12 A. I think so, because a lot of the wives and the
13 POW people were coming in, and they had been led to believe
14 that people would be home for Christmas -- you know.

15 Have you talked to some of them? Have they
16 appeared before your committee?

17 Q. POW wives?

18 A. Right.

19 Q. I don't know if they've testified before the
20 committee, but we're certainly aware --

21 A. They used to come in and see me. I had an open
22 door for all of them, and there were quite a few of them in
23 town because we had helped them organize, you see.

24 I think this must have been around the time of
25 the Christmas because of reacting strongly to any North

1 Vietnamese violations after our POW's are returned, thereby
2 gaining the support of Congress and the rest of the world.
3 This was, really, dictated on the POW issue. It must have
4 been the Christmas bombing period.

5 Q. Is there any reason why Dr. Kissinger is not part
6 of this discussion? It's interesting to us that this is a
7 memo, really, from you, Ken Rush, and Tom Moorer, directly
8 to the President.

9 Is there some explanation for why Dr. Kissinger's
10 --

11 A. No. I imagine Dr. Kissinger got this, though.
12 Did he say he didn't get it?

13 Q. He wasn't asked.

14 A. I'm sure he got it. I'm sure he got this. I
15 wouldn't keep something like that from Kissinger.

16 Q. Do you recall what the response to this memo was
17 from the President?

18 A. I think we went ahead and did some bombing.

19 Q. We certainly did that.

20 You don't recall the President responding to you
21 or what he said?

22 A. No. But he turned it down. I know that. And we
23 went ahead with the bombing, and I signed the orders.

24 This was rejected, in other words.

25 Q. I understand that.

1 A. You don't always succeed. But this was in
2 agreement. The people that saw that memo were my Deputy
3 and the Chairman of the Joint Chiefs. And I think Tom will
4 tel you that he was aware of this memo.

5 Q. I'm sure he was.

6 One of the things --

7 A. I tried to even emphasize by writing in there, if
8 you see on --

9 Q. I was just going to ask you about that.

10 One of the recommendations that you make in this
11 memo is that there should be strong reaction to any North
12 Vietnamese violations after the POW's are returned.

13 Moving forward a month in time to January of
14 1973, was it your understanding when the accords were about
15 to be signed that the intention of the administration was
16 to react strongly to any violations of the accords?

17 A. That was my understanding.

18 Q. Was it your sense that there truly was a resolve
19 within the Administration to react strongly to violations
20 by the DRV?

21 A. That is what they told me. I was not sure that
22 you would get that kind of reaction because of the
23 conditions in the country at that time.

24 Q. Let me ask you this question. One thing that's
25 been suggested to us was that really the 60-day period

1 following the signing of the Accord, during which troops
2 were being withdrawn and prisoners were being released, was
3 viewed by the Administration as really almost like a buffer
4 zone.

5 I think what they mean by that is, people who
6 have suggested this, is that if at any point during that
7 60-day period there were violations of the Accords by the
8 DRV -- either infiltration or problems with POW releases -
9 - we could always just stop the troop withdrawal. In other
10 words, we still really had that leverage.

11 A. We didn't have much leverage left.

12 Q. That's what I want to ask you. Is that a
13 suggestion you think is an accurate one?

14 A. There wasn't much leverage left except for
15 bombing from outside the area, because our troop levels
16 were pretty low at that time. I think the South Vietnamese
17 could have handled the situation and were handling it
18 pretty well during that period.

19 But what broke their back was the withdrawal of
20 support from the United States, and even when President
21 Ford sent up his request I remember I tried to help him on
22 that, but you just couldn't get anything. And that was for
23 about \$200 million, as I remember it, and the Russians were
24 pouring in all sorts of material at that time, and there
25 just wasn't much support for that here in this country.

1 It had been a long war. I know it was never
2 called a war, but it was always called a war by me.

3 Q. I want to ask you about some decisions that were
4 made in March of 1973, and from what I understand about
5 what you all have been talking about, this set of cables
6 was apparently discussed in the newspaper today, but let's
7 put that to one side, and let me tell you what the evidence
8 shows about these cables.

9 I want to ask you if you have any comments or
10 understanding for us as to why whatever happened happened.

11 On March 21, 1973, General John Deane, who was
12 the Acting Director of the DIA, sent a memorandum to
13 Admiral Moorer indicating in essence that it was the DIA's
14 conclusion that the so-called Laos list of 10 from February
15 1, 1973, was grossly inadequate and that there were likely
16 additional live POWs being held by the Pathet Lao in Laos.

17 Admiral Moorer has testified that he, armed with
18 that information, went to President Nixon and that there
19 was general agreement between those two that there was a
20 real problem with the POW list from Laos.

21 A. He wouldn't have gone without the Secretary's
22 permission.

23 Q. Again, let's leave the newspaper article out of
24 this.

25 A. No. But I've talked to him, and I know Tom

1 Moorer, and he doesn't operate that way.

2 Q. I'm not trying to imply that he did. Whether he
3 went there with the Secretary of Defense or not, I don't
4 know. Just he went there.

5 A. Okay. Go ahead.

6 Q. In other words, I'm not accusing him of anything.
7 I'm just saying he discussed the matter with the President.
8 I don't know whether the Secretary of Defense was there or
9 not.

10 A. He might not have been. But I know that Tom
11 Moorer wouldn't discuss something with the President
12 without letting the Secretary know.

13 Q. All I'm telling you is what Admiral Moorer told
14 me. And he didn't tell me that the Secretary of Defense
15 was there. He didn't tell me the Secretary of Defense was
16 not there. All he told me was he talked to the President.

17 A. Right. Sure.

18 Q. He told me that the President ordered him to
19 direct CINCPAC to halt the troop withdrawal unless and
20 until the Pathet Lao came up with a new prisoner list,
21 complete prisoner list of U.S. POWs held in Laos, and said
22 when they would release them and where they would release
23 them. We have the cable going out to CINCPAC to that
24 effect.

25 A. Sure.

1 Q. That was March 22, 1973. The next day, on March
2 23, 1973, there's another cable from Admiral Moorer that
3 goes out, this time to General Woodward, the head of the
4 Four-Party Joint Military Commission -- CINCPAC was one of
5 the addressees -- saying we will complete the troop
6 withdrawal on March 28, 1973, the date it was scheduled to
7 be completed, as long as we get the 10 on the February 1
8 list back, and no longer is there a requirement that there
9 be an additional list provided before the troop withdrawal
10 is completed.

11 Do you know anything about how we got from the
12 March 22 decision of President Nixon to the March 23
13 decision? Again, one fact I left out was Admiral Moorer
14 said that the second cable also was at the direction of the
15 President.

16 A. No, I don't. I don't know because of that, but
17 I've talked to Admiral Moorer, you know, and I talked to
18 him today. He explained it to me, and I think it's up to
19 him to explain it, not to me.

20 Q. I know what his explanation is, or at least I
21 know what he said in his deposition, but what I was
22 wondering was whether you had any information aside from
23 what Admiral Moorer has told you.

24 A. No. I have not had any information except what
25 Admiral Moorer has told me.

1 Q. On March 29, 1973, President Nixon made an
2 address to the nation on TV.

3 A. What date was that now?

4 Q. March 29, 1973. This was one day after the troop
5 withdrawal was completed, one day also after the final
6 release of U.S. prisoners of war.

7 In that address President Nixon announced that
8 all of our American POWs are on their way home. Was that
9 an accurate statement, in your opinion, at the time?

10 A. Well, if I would have been there, I would not
11 have been that positive. But sometimes you have trouble
12 changing the President's speeches. I tried to change one
13 speech about they were going after the COSVN headquarters.
14 I tried to get that particular statement out of a speech
15 back in 1969, and I couldn't get it out. And it haunted
16 him for a long time. You don't want to be that positive.

17 Q. What do you think should have been the official
18 position of the government on this subject?

19 A. Well, I think the official position was, to the
20 best of our ability, we've gotten our POWs out, and we'll
21 continue to investigate all crash sites, all visual
22 sightings and so forth and so on. I don't think you can be
23 that positive in this kind of business. I've always tried
24 to be a little careful on that.

25 That's kind of like going after COSVN. As an

1 example, COSVN headquarters was all over Cambodia, and to
2 say that you're going to destroy it with bombing over there
3 was a very bad mistake. And I tried to get it out of
4 there, and I didn't get it out.

5 I argued with Kissinger about taking it out.
6 He'll tell you that. I gave him hell about that. But they
7 thought that was a lot of punch.

8 Q. On April 12, 1973, Roger Shields gave a press
9 briefing at the Pentagon, the subject being Operation
10 Homecoming.

11 A. What day is this now?

12 Q. April 12, 1973. In that press conference Dr.
13 Shields made this statement: "We have no indications that
14 any live Americans remain in Indochina."

15 I assume you have the same reaction to that
16 statement that you had to President Nixon's statement from
17 March 29.

18 A. I think you have to be careful about that in
19 order to maintain credibility not only with the press but,
20 more importantly, the American people. You have to be very
21 careful in broad statements like that. I'm not questioning
22 Roger's credibility. He's a very conscientious person, and
23 I brought him into the Department of Defense.

24 And I have no reason to doubt that he believed
25 that.

1 Q. Do you have any information or has anyone ever
2 said anything to you indicating that Roger Shields was told
3 to say what he said on April 12, 1973?

4 A. I would doubt if Roger Shields could be told what
5 to say.

6 Q. The answer to the question is no?

7 A. I have no information along that line. I just
8 don't believe if I told Roger to do something that he
9 didn't want to do that he would do it. I wouldn't want
10 people working for me that operated that way. There are
11 many times i was told to do things by the President, but I
12 wouldn't do them, and I would hope there would be times
13 when people that worked for me in Defense, if they didn't
14 want to do it, they'd tell me.

15 Q. I want to ask you one question about the subject
16 of status classifications. You remember we spoke this
17 morning about how that was the duty of the service
18 secretaries to make status classifications, and also to
19 conduct reviews of status classifications.

20 And I remember you said that that was something
21 that you, as Secretary of Defense, did not intrude upon.

22 A. No. I tried to talk to them about bringing
23 togetherness as far as the intelligence -- Navy, Air Force,
24 Army, and Marines -- but I did not set their
25 classifications.

1 Q. You certainly didn't participate personally in
2 decisions in their actual classifications in particular
3 cases?

4 A. No. But I talked to their intelligence chiefs
5 about that particular issue, and I remember at one
6 breakfast meeting I had with them I discussed that with
7 them.

8 Q. On June 8, 1973, William Clements, who at that
9 time was Acting Secretary of Defense -- it was in-between
10 the time that Secretary Richardson left and the time that
11 Secretary Schlesinger was confirmed -- Mr. Clements issued
12 a very short directive to all the service secretaries
13 indicating that any time there was a proposal that the
14 classification or that the status of a missing serviceman
15 be changed to prisoner of war status -- in other words,
16 either from KIA to POW or from MIA to POW -- the case first
17 had to be brought to Mr. Clements for his personal review.

18 Mr. Clements has told us that over the course of
19 the next several months between 50 and 75 cases were brought
20 to his attention for his review pursuant to this order, and
21 that none of those 50 to 75 cases satisfied his
22 requirements for a change of status to prisoner of war
23 status.

24 Did you know about this?

25 A. No.

1 Q. Does that strike you as unusual or bizarre
2 interference by the Acting Secretary of Defense in the
3 business of the service secretaries?

4 A. Well, I don't want to comment on that. There
5 must be some reason he did it. I do not know the reason.
6 I did not handle it that way. My deputies didn't either.

7 Q. When you say that there must have been some
8 reason, is it your opinion that there must have been some
9 extraordinary reason to justify that type of participation
10 by the Acting Secretary of Defense in the service
11 secretaries' statutory decisionmaking authority?

12 A. I really can't comment on this, because I don't
13 know why he did it. You've asked him. He must have had a
14 reason.

15 Q. He actually told us he must have had a reason,
16 but he couldn't think of what it was.

17 A. Oh, okay. Seriously, I don't know why it would
18 be changed that way.

19 [Discussion off the record.]

20 BY MR. KRAVITZ:

21 Q. What was your personal response or reaction to
22 the North Vietnamese lists of U.S. prisoners of war when
23 those lists were provided to us on January 27, 1973?

24 A. My personal view was I hoped they were correct.

25 Q. Did you think that they were?

1 A. I thought there were probably more involved as
2 far as numbers were concerned, but I was only concerned
3 about the number.

4 Q. What do you mean by that?

5 A. Well, I thought there were probably a few more
6 prisoners of war.

7 Q. In Vietnam?

8 A. Yes.

9 Q. What about when the list came out from Laos on
10 February 1, 1973, including 9 Americans and one Canadian?
11 Did you believe that that list was incomplete as well?

12 A. Somehow I thought there would be a few more than
13 that. I had no evidence. It was just a reaction that I
14 had. I have no evidence.

15 Q. Regarding the Laos list?

16 A. Right.

17 Q. So is it accurate to say, then, that in your
18 opinion there was stronger evidence that the Vietnam list
19 was incomplete than there was that the Laos list was
20 incomplete?

21 A. I wouldn't say stronger evidence. I just had a
22 feeling there might be a few more. You see, evidence. You
23 mean sightings and [REDACTED] and things like that? I think
24 most of the letter people were accounted for, except a
25 couple that had probably died in prison after the [REDACTED]

(u)(1)(S)(C) 1
2 And our prisoners of war have confirmed those. I
3 believe you probably have testimony showing that we did
4 lose a few people in prison, and I think those have been
(u)(1)(S)(C) 5 confirmed, [REDACTED]

6 But, you know, this is kind of a gut reaction. I
7 was hopeful there would be more. Could I say that?

8 Q. You can say whatever you want. I guess the
9 difference, from our perspective, is that in Vietnam there
10 were 56 people who were officially carried by the services
11 as POW whose names weren't on the lists, and, as you
12 testified earlier, at least as a general matter no one was
13 classified as a POW unless there was credible, reliable, or
14 evidence that was deemed to be credible and reliable.

15 On the other hand, in Laos there was nowhere near
16 that number of people carried POW whose names didn't appear
17 on the list. And that's what I thought you meant when you
18 said that really was a guess or a feeling in Laos.

19 What I'm trying to get as sense of is, was there
20 a qualitative difference in your response to the two lists?

21 A. No, I don't think so. It was more of a hopeful.

22 Q. What do you think that the U.S. Government could
23 have done in late January, when the lists were provided to
24 us and they appeared to be incomplete, if anything?

25 A. Well, I think you have to put yourself in that

1 position at that particular time. We'd cut our troops back
2 to a very low level. I think the only thing you could have
3 done was used air power, and I think that politically, from
4 a political viewpoint, at that particular time there would
5 have been a tremendous outpouring of criticism of the
6 Administration if they'd gone back out with a big bombing
7 operation of the North, particularly from the Congress.

8 Q. In your opinion, once the Accords were signed in
9 late January 1973, was it a realistic option for the
10 government simply to halt the troop withdrawal as a means
11 of responding to enemy violations?

12 A. No. We were down to a level where that wouldn't
13 have made a difference. But I think air power could have
14 made some difference. But that option was limited because
15 of the political situation within the United States.

16 I think you have to put yourself back in that
17 period a little bit, and it's hard to do. I mean, it's a
18 long time ago. It's difficult.

19 Q. Would you agree with a statement which actually
20 was made by another witness before the Committee that in
21 essence the situation that we found ourselves in on January
22 27, 1973, was that we were forced to take or leave the
23 lists that the North Vietnamese gave to us, and that we
24 really had no leverage to do anything to respond to them?

25 A. No. I think public opinion on POW and the

1 missing in action thing has always been on the side of the
2 United States, because these people had been violating for
3 so long the Geneva Accords, I think public opinion was very
4 important at that time. I still think it is.

5 Q. So you think that back in late January or early
6 February 1973 the public would have supported a military
7 reaction?

8 A. I don't think they would have supported a
9 military reaction. I think they would have supported
10 bringing down tremendous diplomatic pressure on the North
11 Vietnamese, but I'm not sure they would have supported
12 bombing at that time.

13 See, I felt that the bombing just before
14 Christmas was probably very difficult to get. You know, I
15 had to explain it, and nobody else did. No one else would
16 stand up over at the White House and do it. I had to go
17 down to the press room and explain it. And that was not an
18 easy period.

19 MR. KRAVITZ: Did you have something you wanted
20 to say?

21 MR. McNEILL: No.

22 BY MR. KRAVITZ:

23 Q. Those are all the questions that we have for you.
24 I want to thank you for spending so much time, particularly
25 since you spent more time.

~~TOP SECRET~~

1 A. Gee, this must be the longest deposition that
2 you've taken so far.

3 Q. Actually, we've had a lot of two-day depositions,
4 but let me just ask you -- you certainly don't have to, but
5 if there's anything you'd like to say in summary, you
6 certainly have an opportunity to do that.

7 A. No. I think we've done pretty well.

8 MR. KRAVITZ: Well, thank you very much for
9 spending so much time with us.

10 THE WITNESS: Glad to do it, and I'll see you
11 Monday, 9:30.

12 [Whereupon, 3:42 p.m., the taking of the instant
13 deposition ceased.]

14

Signature of the Witness

15
16 SUBSCRIBED and SWORN TO before me this _____ day of
17 _____, 19____.

18

Notary Public

19

20 My Commission Expires: _____

~~TOP SECRET~~